

Law copy 17

THE

T R I A L

OF

JOHN DONELLAN, Esq.

FOR THE

W I L F U L M U R D E R

OF

Sir THEODOSIUS EDWARD ALLESLEY BOUGHTON, Bart.

AT THE

A S S I Z E AT W A R W I C K ,

On Friday, March 30th. 1781.

Before the Honorable FRANCIS BULLER, Esq.

One of the Justices of His Majesty's Court of King's Bench.

TAKEN IN SHORT-HAND,

BY JOSEPH GURNEY.

L O N D O N .

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BY FRANCIS PICKENS, Esq.

NEW YORK: 1861.

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OF

W. A. B. H. I. C.



FOR THE

JOHN BOWEN, Esq.

OF

W. A. B. H. I. C.

W. A. B. H. I. C.

INDICTMENT.

“WARWICKSHIRE. THE Jurors for our Lord the King, upon their oath pre-
“sent, That John Donnellan, late of the Hamlet of Little Lawford, in the Parish
“of Newbold upon Avon, in the county of Warwick, Esquire; not having the fear
“of God before his eyes, but being moved and seduced by the instigation of the
“Devil, and feloniously, wilfully, and of his malice aforethought, devising and in-
“tending Sir Theodosius Edward Allesley Boughton, Baronet, to poison, kill and
“murder, on the 29th day of August, in the 20th year of the Reign of our Sovereign
“Lord George the Third, by the grace of God, of Great Britain, France, and Ire-
“land, King, defender of the faith, &c. with force and arms, at the Hamlet aforesaid,
“in the parish aforesaid, in the county aforesaid, a certain quantity, to wit, two
“drachms of arsenic, being a deadly poison, feloniously, wilfully, and of his malice
“aforethought, did put, infuse in, and mix together with water, (the said John
“Donnellan, then and there well knowing the said arsenic to be a deadly poison)
“and the said John Donnellan, the said arsenic so as aforesaid put, infused in and
“mixed together with water into, and in a certain glass phial bottle, of the
“value of one penny, did put, and pour, and the said glass phial bottle, with the said
“arsenic, put, infused in said mixture, together with water as aforesaid, contained
“therein; then and there, to wit, on the same 29th day of August, in the 20th year
“of the reign of our said Lord the King, with force and arms, at the Hamlet of
“Little Lawford, in the parish of Newbold, upon Avon aforesaid, in the said
“county of Warwick, feloniously, wilfully, and of his malice aforethought, in the
“lodging room of the said Sir Theodosius Edward Allesley Boughton, did put, and
“place in the place and stead of a certain medicine, then lately before prescribed,
“and made up for the said Sir Theodosius Edward Allesley Boughton, and to be
“taken by the said Sir Theodosius Edward Allesley Boughton; He, the said John
“Donnellan, then, and there feloniously, wilfully, and of his malice aforethought,
“intending that the said Sir Theodosius Edward Allesley Boughton should take,
“drink and swallow down into his body, the said arsenic, put infused in, and mixed
“together with water as aforesaid, contained in the said glass phial bottle, by mis-
“taking the same, as and for the said medicine, so prescribed and made up for the
“said Sir Theodosius Edward Allesley Boughton, and to be by him, the said Sir
“Theodosius Edward Allesley Boughton, taken as aforesaid. And the Jurors afore-
“said, upon their oath aforesaid, do further present, That the said Sir Theodosius
“Edward Allesley Boughton, not knowing the said arsenic put, infused in, and mixed
“together with water as aforesaid, contained in the said glass phial bottle, so put
“and placed by the said John Donnellan, in the lodging room of the said Sir
“Theodosius Edward Allesley Boughton, in the place and stead of the said medicine,
“then lately before prescribed and made up for the said Sir Theodosius Edward
“Allesley Boughton, and to be taken by him, the said Sir Theodosius Edward
“Allesley Boughton, in manner aforesaid, to be a deadly poison, but believing the
“same to be the true and real medicine, then lately before prescribed and made up
“for, and to be taken by him the said Sir Theodosius Edward Allesley Boughton,
“afterwards to wit, on the 30th day of August, in the year aforesaid, at the hamlet of
“Little Lawford aforesaid, in the parish of Newbold, upon Avon aforesaid,
“in the said county of Warwick, the said arsenic, so as aforesaid, put
“infused in, and mixed together with water, by the said John Donnellan as
“aforesaid, contained in the said glass phial bottle, so put and placed by the
“said John Donnellan in the lodging room of him, the said Sir Theodosius
“Edward Allesley Boughton, in the place and stead of the said medicine, there lately
“before prescribed and made up for the said Sir Theodosius Edward Allesley Boughton,
“he, the said Sir Theodosius Edward Allesley Boughton, did take, drink, and
“swallow down into his body, by means of which said taking, drinking, and
“swallowing down into his body, of the said Arsenic, so as aforesaid, put, infused in,
“and

" and mixed together with water, by the said John Donnellan, as aforesaid, he, the
 " said Sir Theodosius Edward Allesley Boughton, then, and there became sick, and
 " distempered in his body, of which said sickness and distemper of body, occasioned
 " by the said taking, drinking, and swallowing down into the body of the said Sir
 " Theodosius Edward Allesley Boughton, of the said arsenick, so as aforesaid, put,
 " infused in, and mixed together with water, by the said John Donnellan, as aforesaid,
 " he, the said Theodosius Edward Allesley Boughton, on the said 30th day of
 " August, in the year aforesaid, at the Hamlet of Little Lawford, in the Parish of
 " Newbold upon Avon, in the County of Warwick aforesaid, did die. And so the
 " Jurors aforesaid, upon their oath aforesaid, do say, That the said John Donnellan,
 " him, the said Sir Theodosius Edward Allesley Boughton, in manner, and by the
 " means aforesaid, feloniously, wilfully, and of his malice aforethought, did poison,
 " kill, and murder, against the peace of our said Lord the King, his crown and
 " dignity".

And

" And the jurors aforesaid, upon their oath aforesaid, further present, " That the said
 " John Donnellan, not having the fear of God before his eyes, but being moved and
 " seduced by the instigation of the Devil, and feloniously, wilfully, and of his malice
 " aforethought, devising and intending to kill and murder the said Theodosius
 " Edward Allesley Boughton, with a certain poison, called arsenick, on the said
 " 29th day of August, in the said 20th year of the reign of our said Lord the
 " King, with force and Arms at the said hamlet of Little Lawford, in the said
 " parish of Newbold upon Avon, in the said county of Warwick, knowing the said
 " poison called arsenick to be deadly poison, feloniously, wilfully, and of his malice
 " aforethought, did mix and mingle the said poison called arsenick in water, and that
 " the said John Donnellan feloniously, wilfully, and of his malice aforethought
 " did put and pour the said poison called arsenick, so as aforesaid mixed and mingled
 " in water, into and in a certain glass phial, and the said glass phial, with the said
 " poison called arsenick, so mixed and mingled in water, as aforesaid contained
 " therein then and there, to wit on the said 29th day of August, in the 20th
 " year aforesaid, at the hamlet aforesaid, in the parish aforesaid, in the county
 " aforesaid, feloniously, wilfully, and of his malice aforethought, did put and place
 " in the lodging room of the said Sir Theodosius Edward Allesley Boughton, in the
 " dwelling house of dame Anna Maria Boughton, there situate, with intention that
 " the said Sir Theodosius Edward Allesley Boughton should take, drink, and swallow
 " down into his body the said poison called arsenick, so mixed and mingled in
 " water as aforesaid, and contained in the said glass phial. And the jurors aforesaid,
 " upon their oath aforesaid, do further present, That the said Sir Theodosius
 " Edward Boughton, not knowing the said poison called arsenick, so mixed and
 " mingled in water as aforesaid, and contained in the said glass phial to be deadly
 " poison; afterwards, to wit, on the 30th day of August, in the 20th year
 " aforesaid, at the hamlet aforesaid, in the parish aforesaid, in the county aforesaid,
 " did take, drink, and swallow down into his body the said poison called arsenick,
 " so mixed and mingled in water as aforesaid, and contained in the said glass phial,
 " by means of which said taking, drinking, and swallowing down into the body of
 " him the said Sir Theodosius Edward Allesley Boughton, of the said poison called
 " arsenick, so as aforesaid mixed and mingled in water by the said John Donnellan
 " as aforesaid, he, the said Sir Theodosius Edward Allesley Boughton then and
 " there became sick and distempered in his body, of which said sickness and
 " distemper of body, occasioned by the said taking, drinking, and swallowing down
 " into the body of the said Sir Theodosius Edward Allesley Boughton, of the
 " said poison, called arsenick, so as aforesaid, mixed and mingled in water as aforesaid,
 " by the said John Donnellan as aforesaid, he the said Sir Theodosius Edward Allesley
 " Boughton, afterwards to wit, on the said 30th day of August, in the 20th
 " year aforesaid, at the hamlet aforesaid, in the parish aforesaid, in the county aforesaid,
 " did die. And so the jurors aforesaid, upon their oath aforesaid, do say, That the
 " said John Donnellan, in manner, and by means last aforesaid, feloniously, wilfully,
 " and of his malice aforethought, did poison, kill, and murder the said Sir Theodosius
 " Edward Allesley Boughton, against the peace of our said Lord the King his
 " crown and dignity.

The foregoing Indictment was found by the Grand Inquest a TRUE BILL. The prisoner upon his arraignment pleaded NOT GUILTY; whereupon a petit jury were sworn and charged with the prisoner.

Counsel for the Crown.

Mr. Howorth,
Mr. Wheeler,
Mr. Balguy,
Mr. Geaf,
Mr. Digby,
Solicitor, Mr. Caldecott.

Counsel for the Prisoner.

Mr. Newnham,
Mr. Green,
Mr. Dayrell,
Solicitor, Mr. Inge.

(The Indictment was shortly opened by Mr. Digby.)

Mr. HOWORTH.

GENTLEMEN of the Jury, the crime imputed to the prisoner at the bar, is that of wilful murder; effected by means the most detested and abhorred: I such an accusation naturally excites the indignation of honest minds against the criminal. I shall not endeavour to encrease it, it is your duty to resist it; for the nature of the present enquiry calls for your sober and dispassionate attention: The offence is easy of perpetration, but difficult of detection. The murderer by poison is not pointed out to justice by the bloody marks of his guilt, or the fatal instrument of his crime; his horrid purpose is planned in secret, is executed without his presence; his guilt can only be traced by circumstances: but circumstances sometimes do, and in this case I trust will as plainly reveal the guilty hand, as if an hundred witnesses testified the actual commission of the crime.

It is my duty to state to you those circumstances, and I shall add to them such objections, as in my judgment the nature of the case fairly affords, which I shall do the more readily, as I address you subject to the correction of a discerning judge, who will permit nothing to be placed in the scale of justice, but what ought there to be weighed.

Sir Theodosius Boughton was a young man of an ancient and respectable family in this country, had he attained to the age of twenty-one, he would have had in his own power and at his own disposal, the whole of an opulent fortune in the event of his dying before that time, by much the greatest part of that fortune descended to his sister, who was the wife of the prisoner Mr. Donellan; and he, in her right, would have been entitled to a life estate in this considerable fortune, the attaining of which, beyond a doubt, induced the prisoner to plan, and execute the abominable crime with which he now stands charged. But in as much as the taking off a young man at his time of life, possessed of a good constitution, affected by no indisposition that could at all endanger his life, must necessarily be attended with suspicion, it was found convenient to prepare the minds of those who were his neighbours, of those who were connected with him, for that event which the prisoner had already determined on. You will learn therefore from the witnesses, that for a short time before the death of Sir Theodosius, the prisoner had taken many opportunities of expressing the very bad state of health he laboured under, of expressing his opinion, that it was impossible for him to live, and that his life was not worth one year's purchase. These representations you will find, were grossly false, and the only reason for this making use of them was, what I have before suggested, in order to prepare the minds of people for that event, which he knew shortly was to take place. Sir Theodosius intending to pay a visit to a young gentleman of the name of Fonnereau, a friend of his, living in Northamptonshire, and proposing to stay with him till he came of age, called for the immediate execution of the prisoner's plan, and Sir Theodosius being attended by a Mr. Powell, an apothecary, who visited him for a slight venereal disorder he had contracted, and who, in the course of that cure, was giving him some cooling medicines, furnished an opportunity for its completion: you will learn, that on Tuesday evening, the 29th of August, Mr. Powell made up a draught, and sent by a servant of Sir Theodosius Boughton, for the purpose of its being taken on the next morning, the Wednesday; it

was perfectly well known to the prisoner, that Sir Theodosius was to take physic on that day; you will learn from Mr. Powell, that the physic was in itself, as harmless a draught as could be administered. The medicine was brought to Lawford Hall early in the evening, of Tuesday the 29th: about five o'clock that evening, Sir Theodosius taking with him most of the men servants, went to the river for the purpose of taking the diversion of fishing, Lady Boughton and Mrs. Donellan were walking for some hours in the garden; where the prisoner was, during that time, I believe, cannot be explained to you, but he joined them in the garden about seven o'clock in the evening, and in the course of his conversation told them, that he had been with Sir Theodosius a fishing, that he was solicitous for his return home, and that he was apprehensive by his staying so late by the river, he would take cold: you will find that this account was not true, he had not been with Sir Theodosius any part of that evening a fishing: What motive, or what inducement he could have to tell them this falsehood, you will decide upon if you are able, it seems however necessary, in the mind and apprehension of the prisoner, that he should account for his absence that evening, though he does it at the expence of truth.

When Sir Theodosius returned in the afternoon from fishing, he was then in perfect health and good spirits, he gave some directions concerning family matters, eat his supper, went to bed apparently in good health. In the morning it will be proved to you by a servant who called him at an early hour, that when he awoke he appeared in perfect good health; that he leaped out of bed for the purpose of getting something out of his closet, which the servant wanted: and that in his apprehension he had never seen him better. About seven o'clock in the morning Lady Boughton got up; she went into the room of Sir Theodosius, and as he had before desired her to give him his medicine when she was able to do it, she went for the purpose of enquiring of him, whether he had taken his physic, or whether he chose she should give it to him. He desired her to reach down the draught, which was standing upon the shelf in his bed room; it is a very singular circumstance that these draughts, which formerly had been locked up by Sir Theodosius, in his closet, afterwards came to be placed open upon the shelf in his bed room; and the manner in which it will be accounted for, is this; he once complained that he had neglected taking his physic at the time appointed for him; upon which the prisoner said, you should see look the physic up: if you leave it upon a shelf in your bed room, it is not possible you then can mistake, it will be before your eyes, you will be sure to take it when you want it. Lady Boughton reached the draught off the shelf, poured it into a cup for the purpose of Sir Theodosius taking it, he had not swallowed not above half of it, when he complained that it was so nauseous to the taste, and disagreeable to the smell, that he did not apprehend he should be able to keep it upon his stomach; this observation led Lady Boughton to smell to the draught; the smell of it was extremely particular, and she will describe it to you, that it gave her the idea of the taste of bitter almonds; she however gave him the cup again, and he swallowed the whole of the draught; he desired her to furnish him with a bit of cheese to chew, for the purpose of taking away the disagreeable taste. She then gave him a little water, he washed his mouth, spit it out, and laid down, in order to compose himself; In a very few minutes after he had swallowed this draught, he appeared to be in a considerable degree of agony; his stomach heaved violently; his eyes seemed much affected; those emotions Lady Boughton at that time conceived to be his efforts to resist the bringing up the medicine, she having stated his apprehensions, that from the disagreeable taste of it, it would be impossible for him to keep it upon his stomach. She took no farther notice of him at that time, but in a very few minutes he became more composed: Lady Boughton then quitted the room, conceiving he was going to sleep: she returned again in about ten minutes afterwards, when to her inexpressible astonishment, she found this young man in the agonies of death; his eyes fixed, his teeth clenched, his stomach heaving with some violence, and a considerable deal of foam issuing from his mouth. He died in about half an hour afterwards, in the manner that will be described to you by Lady Boughton, and another witness.

Here perhaps it may be enquired, what could be this poison, so fatal in its effect, so instantaneous in its operation. It is hardly material in the present case, what the poison was, if you are satisfied in your own mind, that he was in fact poisoned, and that he was, no man exercising his sober judgment upon the occasion, can possibly entertain a doubt. A young man somewhat better than twenty years of age, having a good constitution, laboring under no disorder that could in the smallest degree endanger life, taking a draught, the swallowing of that draught followed with the immediate symptoms, that I have now described to you, I say no man, who hears these circumstances related,

can for a moment doubt but that poison produced these effects. But the experiments made by learned, and intelligent men in their profession, will satisfy you, if you want satisfaction upon that head; that, this poison certainly was laurel water; I shall forbear to give the reasons of their judgment, because you will hear them better from their mouths. But this is a fact which you will learn correctly from Lady Boughton, that whatever the draught was, which she administered, most certainly it was not the draught sent by the apothecary: for the *smell* of the draught which she administered, was totally different from that sent by the apothecary, that fact therefore will be clear, and out of all controversy, that, whatever it was, it was not that thing sent by the apothecary.

Gentlemen, there is a circumstance, and a very important one indeed in this trial, which goes to establish a strong probability, that this poison used was a distillation of laurel water. The prisoner at the bar was skilled in distillation; he was possessed of a still. I shall prove, that he worked this still; I shall shew you that within a month before the death of this young man, he was frequently in private, locked up in his own room, using a still. I shall shew you, that this still was afterwards produced by him, about a fortnight after the death of this young man, filled with lime. Now I will tell you what I conceive, and what you will be inclined to conjecture was the reason of filling it with lime. If this still had been used for the purpose of distilling laurel water, it would have furnished evident traces of what the prisoner had been about; the smell would have remained, that would have led to a discovery of his practice. In order to remove that *smell*, lime was placed in the still, and which, as it will be explained to you, was of all others the properest thing to make use of, in order to take away the *smell*; the still thus filled, was produced to one of the servants, to be put into the oven to be dried, and afterwards to be cleaned. In order to account for its being filled with lime, the prisoner makes use of this singular excuse—says he, I have put the lime in it and placed it under my bed for the purpose of killing fleas; an excuse more ridiculous or more improbable it is not easy to suggest; yet when he gave this still to the servant, he conceived it to be necessary to make some excuse, some apology for its appearance.

Lady Boughton, when she returned again into the room of her son, struck with surprise and astonishment at the situation in which he lay, immediately dispatched a servant for Mr. Powell, the Apothecary, and for Captain Donellan; Mr. Donellan arrived first—And here let me beg your attention to his conduct and behaviour, upon coming into the room. The moment he entered, Lady Boughton, who imputed the death of her son to the draught that he had swallowed, immediately observed to Mr. Donellan—Good God! what medicine can Mr. Powell have sent? I am satisfied it would have killed a dog if he had swallowed it; to that the prisoner answers,—Why the devil did Mr. Powell send such a medicine? where is the bottle? She pointed to it as it was standing upon the shelf; the prisoner took the bottle down, he immediately poured water into the bottle, he shook it, he rinsed it, he then threw the contents of it into a *basin of dirty water* standing in the room. Lady Boughton, astonished at this conduct, remonstrated against it, said, what are you doing? let every thing remain just in the situation in which it is, till Mr. Powell the apothecary arrives. For God's sake don't touch the bottle. The prisoner, notwithstanding that remonstrance, fearing least by accident he might have taken up the wrong bottle, reaches down another from the shelf, pours water also into the second bottle (for you will observe there never were but two draughts of this sort sent by Mr. Powell) fearing therefore that he might have mistaken the bottle as both had labels upon them, he takes the second bottle, pours water into that, rinses it well, throws the contents of that also into the basin of dirty water. How is this to be accounted for? What ingenuity can gloss over this transaction? How can it be reconciled to any idea of innocence? But that is not all—a maid servant came up, but that servant is since dead, we therefore have lost the benefit of her evidence in this prosecution; though in some measure it will be supplied. Whilst the young man was lying in the agonies of death, the prisoner insists upon this girl taking down the bottles, taking away the dirty things, and cleansing the room; to this Lady Boughton objected, she begged every thing might be suffered to continue just in the same state in which it was, till Mr. Powell the apothecary came. Mr. Donellan was warm upon the occasion, he insisted upon it, he pressed the woman to take them down, he prevailed, the room was cleared, the bottles were removed, and every circumstance which could have led to suspicion was taken away before this man arrived.—Gentlemen, when Mr. Powell comes, observe what was the prisoner's conduct.

When the apothecary was shewn into the room, instead of the prisoner enquiring what medicine he had sent, instead of his making any observation upon the effect of it, not a word

word is said, not an expression is made use of that the draught could by the most distant possibility have occasioned the horrid situation in which the young man was then lying; but the prisoner on the contrary, took great pains to explain to Mr. Powell, that Sir Theodosius had taken cold, that he had been out late the night before a fishing; and that cold occasioned his death, Mr. Powell is suffered by the Prisoner to depart from the house without having a question put to him about the medicine, without having the bottle shewn him; without having any means used of explaining, or clearing up his own conduct relative to the medicine which had produced those fatal effects; this is a circumstance, that if there was no other in this case, in my apprehension ought alone to decide upon the fate of the prisoner.

But Gentlemen, after Mr. Powell was gone, it occurred naturally enough to the mind of the Prisoner, that suspicions would arise in the family; those suspicions it behoved him either to prevent, or get rid of; you will find, that he is industriously going among the servants, even before this young man had expired, accounting to them for his death, representing it variously, to one that he had taken cold, and that the poor foolish fellow, as he called him, had staid out very imprudently the night before, and had wet his feet: to another he represents that he had died of the venereal disorder, going through the family, taking pains to account for the sudden death of this unfortunate young man. Now it is remarkable, that he should undertake to state that Sir Theodosius had wet his feet the night before a fishing, and that had occasioned a cold; how could he know that he had wet his feet? Had he been fishing with him? Could he possibly know the circumstance? But I will prove to you that it was false; in fact, Lady Boughton had prudence enough to examine the stockings which he had wore the preceding evening, and there was not an appearance that they ever had been wetted. It will be proved to you by the servants who attended him, that he continued almost all the time he was out on horseback; that he was cautious of coming near the water; and they are confident his feet never were wet at all. It was necessary for the Prisoner also to give some account of his death to the guardian Sir William Wheeler, he wrote to him a letter which I shall read to you. The letter is addressed to Sir William Wheeler, written on the morning of the death of Sir Theodosius.

“ Dear Sir,

“ I am sorry to be the communicator of Sir Theodosius’s death to you, which happened this morning; he has been for some time past under the care of Mr. Powell, of Rugby, for a similar complaint to that which he had at Eaton. Lady Boughton and my wife are inconsolable; they join me in best respects to Lady Wheeler, yourself, and Mr. and Mrs. Sitwell. We are much concerned to hear of their loss.

I am, dear Sir, with the greatest esteem,
Your most obedient servant,

Lawford Hall, Aug. 30, 1780.

JOHN DONELLAN.”

Now in this letter not a word is said of the suddenness of his death; nor of the manner of it, nor of a suspicion that it had been occasioned by the medicine he had swallowed, but the whole of the letter is calculated to impress Sir William with the idea, that the death was a natural one, and the result of a long illness, for which he had been attended properly, and had received medical assistance; the letter indeed did produce the effect it was intended to produce in Sir William’s mind; for no enquiry was made, no person of the faculty was called in. The body of this young man was kept secreted from all eyes but those of the family, till the Saturday following the death; when he was actually lodged up in his coffin; suspicions however had gone abroad: people were struck with the manner of this young man’s death, they were greatly alarmed, and those suspicions were so strong, that they at last reached the ears of the guardian Sir William Wheeler.

On the Monday, Sir William Wheeler communicates these suspicions to the prisoner: and here it will be very material for you to attend to Sir William Wheeler’s letter to him, and to advert to his conduct upon that occasion. On Monday the 4th of September, Sir William Wheeler writes a letter addressed to Mr. Donellan, stating to him in express terms, that he had received information that Sir Theodosius Boughton must have died by poison. Calling upon him, in order to satisfy the family, in order to relieve the public from the suspicions they entertained, to have the body opened, and in his letter he expressly insists upon its being done; he names the persons he wished to have called in upon

upon the occasion, a Dr. Rattray, a Mr. Wilmer, and a Mr. Snow. This letter was received by the Prisoner, on the Monday. On the Monday, in consequence of that requisition, for he could not have done otherwise, he dared not to have resisted the request of Sir William Wheeler to find for these persons, they were accordingly sent for; the prisoner sends a note back to Sir William Wheeler, stating the approbation of himself and of the family, that the body should be opened: in answer to that, a second letter is sent from Sir William Wheeler, saying that he is perfectly happy to find that the family are in that disposition, that he himself cannot come over to Lawford Hall, that it would be of no use in truth if he did come over; that the medical gentlemen were the most proper to apply to, and to act upon the occasion.

Dr. Rattray and Mr. Wilmer came to Lawford Hall about eight o'clock on the Monday evening, the 4th of September, they were met by the prisoner, who took them into a parlor, he there enquired of Dr. Rattray, whether he had heard from Sir William Wheeler? Dr. Rattray said he had not. Why, said the prisoner, I have received a letter from Sir William Wheeler, which is very polite and very friendly, I will shew it to you; upon that, he searched as if it were in his pocket, but produces the *cover* of the letter only, and not the letter itself. Shortly afterwards however, he did produce, not the first letter written by Sir William Wheeler, not that letter in which he stated the information he had received, that this young man had been poisoned, not that letter in which he pressed and insisted on the body being opened, but he produces the second letter containing no directions; containing nothing more than an expression of his satisfaction, that the family were disposed to have the body opened. The refusal of which you will necessarily perceive, could give no idea at all to Dr. Rattray and to Mr. Wilmer of the occasion of their being sent for. Gentlemen, in point of fact, it was never communicated to them by the Prisoner; instead of desiring them, instead of urging them to open the body, instead of stating that it was in order to satisfy the suspicions of the public, in order to investigate what was the cause of the death, not a word of such intent was mentioned: they asked him only why they were sent for to open the body? his answer was, it is for the satisfaction of us all: they are shewn into a room, the body appeared at that time, to be in such a state of putrefaction, that not being called upon to act, the prisoner having explained to them the reason why they should act, they declined doing any thing, because the body appeared to them at that time to be in such a state, that it would be attended with some degree of personal danger to themselves, if they attempted to open it. They are dismissed the house, they are sent away, without the prisoner ever once asking an opinion of them, without ever calling upon them for their judgment, to say even from the appearance of the body what had occasioned the death; not a word is said to them, nor an enquiry made, they are suffered to depart, leaving Mr. Donellan and the family just in the state in which they found them.

Gentlemen, this is not all, on the next morning, a young man, a Mr. Bucknill, a surgeon, came to Lawford Hall. He had heard of the suspicions entertained, he had learned that the gentlemen of the faculty, who had been at Lawford Hall the evening preceeding had declined opening the body, he came to the prisoner Donellan, stating the purpose of his coming; saying, he was ready at all hazards to open the body, in order to give satisfaction to the public. The prisoner would not permit him to do it: the prisoner assigns as a reason for his refusal, that he had not been ordered by Sir William Wheeler to send for him, that the persons sent for by Sir William, had declined opening the body; that it would be *unfair* and *improper* in him to permit any body else to attempt it after they had declined it: and with reasons, and excuses of this sort, this young man was permitted on the morning to depart the house, ready as he was to open the body, and to give every satisfaction that inspection could have afforded; after that the prisoner writes an answer to Sir William Wheeler's first letter: this letter is dated the 5th of September, 1780.

“ Dear Sir,

“ GIVE me leave to express the heart felt satisfaction I enjoyed in the receipt of your letter, as it gave Lady Boughton, my wife, and self an opportunity of instantly obsequing your advice in all respects; I sent for Dr. Rattray and Dr. Wilmer; they brought another gentleman with them; Mr. Powell gave them the meeting, and upon receipt of your last letter I gave it to them to peruse and act as it directed.”

Mind Gentlemen the falacy of this; what did he give? did he give the letter which conveyed the directions, did he give the letter which called upon the medical gentlemen

to act? did he give the letter which contained the suspicions of this young man having been poisoned? you will learn from the witnesses that the letter which they saw, was the second letter, a complimentary answer to Mr. Donellan's note, containing no directions, containing no instructions for them to act: and upon a perusal of which, they were furnished with no ideas for their conduct. The letter then goes on, "the four gentlemen proceeded accordingly, and I am happy to inform you that *they fully satisfied us.*" Good God! in what does this satisfaction consist! what enquiry was made, what investigation of the death, what opinion was asked after? what opinion was formed? not a single circumstance was ever mentioned; not a single enquiry ever made; not a single opinion ever expressed to the prisoner, yet upon this he writes back to Sir William Wheeler, that *they have fully satisfied us.* In my apprehension, were there no other fact in this case, than this single letter, it speaks as strongly as a thousand witnesses present, and testifying to the actual commission of the crime, I shall not read the latter part of the letter now, because the whole of it will be read to you in evidence; this part I use as affording an observation, which I conceive material for your consideration.

Mr. Newman. I desire the whole of the letter may be read now.

Mr. Hewarth. As the counsel for the prisoner, desire the whole of the letter to be read now, I shall certainly do it: "I am happy to inform you that they fully satisfied us, and I wish you would hear from the state they found the body in, as it will be an additional satisfaction to me that you should hear the account from themselves;" Now what is to be heard? what information is to be gained by seeing these gentlemen? by hearing what they have to say? I will tell you the whole of their information; we saw the body, it appeared to us in a great state of putrefaction, we made no particular observation, we have formed no opinion, we can give you no light into the matter. There is the whole of the enquiry, and when he states his wish, that he should know from them the state of the body, that is the whole which by possibility can be learned. The letter then goes on very artfully to state, and to account for the death of Sir Theodosius from some illness he laboured under. Sir Theodosius made a very free use of ointment and other things, to repel a large b——which he had in his groin. So he used to do at Eaton, and Mr. Jones's, he told me often. I repeatedly advised him to consult Dr. Rattray, or Mr. Kerr, but as you know Sir Theodosius, you will not wonder at his going his own way, which he would not be put out of. I cannot help thinking but that Mr. Powell acted to the best of his judgment for Sir Theodosius in this and the last case, which was but a short time finished before the latter appeared. Lady Boughton expressed her wishes to Sir Theodosius, that he would take proper advice for his complaints, but he treated her's as he did mine. She and my wife join in best respects, &c."

5th Sept. 1781.

This is the whole of the letter and the latter part of it is calculated still to mislead Sir William Wheeler, is calculated to allay his suspicions, and to account for his death from other causes than poison.

This letter certainly produced in Sir William Wheeler's mind, the effect intended by it, for upon the perusal of it, he was satisfied, that the body had been opened; and as he was acquainted with the abilities and the integrity of the gentlemen applied to upon that occasion, if they were satisfied, he himself was perfectly satisfied; you will judge however of his surprize, on learning, three or four days afterwards, that the body never in fact had been opened; he immediately writes to Mr. Donellan, states to him his astonishment at the body not having been opened, desires, immediately, that Mr. Bucknill might be sent for, that Mr. Snow might be sent for, and that *at all events* the body should be opened. Mr. Bucknill is sent for, when Mr. Bucknill comes, as Mr. Snow had not at that time arrived at Lawford Hall, he went to see a patient, and left word he should be back in an hour; Mr. Snow within that hour comes, Mr. Snow is told, that Mr. Wilmer had declined opening the body, because it was so much in a state of putrefaction, that he apprehended danger. Upon this information Mr. Snow is got out of the house, and upon Mr. Bucknill's return, it is stated to him that Mr. Snow had declined it, it being too hazardous for him, and Mr. Bucknill is sent away also without the body having been opened. This is a most extraordinary circumstance. What, after the letters received from Sir William Wheeler, after the suspicion so strongly pointed, after an express requisition, yet the prisoner is found preventing by a conduct the most artful that can be imagined, the body's being opened!

On that day the body was buried, but before its interment, he writes a note to Sir William Wheeler, to satisfy him as to the reason why the body was not opened; this letter is very material for your consideration; in answer to Sir William Wheeler's, this was the day upon which the body was buried, about one o'clock.

Dear

“ Dear SIR,

“ In answer to yours, which I this moment received, I now, as I did yesterday in my letter, refer you and any one that pleases, for the particulars respecting the state, Messrs. Rattray, Wilmer, Powell, and another gentleman, found Sir Theodosius's body in; they, agreeable to your directions, were by themselves upon that business, and I was in hopes you had seen them since I wrote to you yesterday morning. Mr. Bucknill, of Rugby, called here afterwards, and said that he heard that we wanted to have the body opened, I told him we did, and that I wrote to the above gentlemen for that purpose, and that you had named them to us; and if you had named him (Bucknill) we would have sent to him as we did to the other gentlemen. We fixed this day for the corpse to be buried, as being the eighth day since Sir Theodosius died; and if the coffin had not been folded by the plumber, Crooke, from Rugby, Mr. Bucknill should be welcome to inspect the body. The time fixed for the burial is three o'clock to day; and if you please to order it to be postponed until the state of the body is made known to you by the people you ordered to come here, please to let me know it before. If we do not hear from you, we conclude you have seen some of them, and lest you should not, I will send to Dr. Rattray to call upon you directly, and bring with him my note to him to come here with Wilmer to open Sir Theodosius.

We are, dear Sir, your most humble servants, and in particular

*A quarter before one o'clock,
Wednesday.*

JOHN DONELLAN.”

This, gentlemen, is a specious shew indeed, of an inclination to postpone the burial; Till when? till Dr. Rattray and Mr. Wilmer are sent for, who, if they are sent for, can give no information upon the subject: not an offer made for Mr. Bucknill to be then permitted to open the body, not an offer made that any body else should be called upon; but he offered to postpone the burial of the corpse till he, Sir William, had seen the persons he had sent there, namely, Dr. Rattray, and Mr. Wilmer, from whom he can by no possibility, receive information upon the subject.

Between the hours of three and four that evening, the body was buried, but the circumstances of its being interred, without having been previously opened, wonderfully alarmed the minds of all people, and it was insisted upon, and laudably, by the gentlemen in the neighbourhood, that the Coroner should be called, that the body should be taken up, and that should be done by course of law, which the prisoner had taken so much pains to prevent. The body was accordingly taken up and opened. What appearances the body afforded, you will hear from the gentlemen who were present and opened it, I shall not forestall the account which they will give you, because you will hear it with more propriety, and with greater correctness from their mouths; it will be enough for me to say, that the appearances the body afforded, confirmed them strongly in their judgment and opinion, that this young man had been poisoned.

During the course of this examination before the Coroner, Lady Boughton, the prisoner Mr. Donellan, and I believe the whole family, were called upon as witnesses, when Lady Boughton was telling the whole circumstances of the case; when she came to that most remarkable instance, of the prisoner's having washed the bottles in spite of every opposition that she could give to the measure, the prisoner was observed to lay hold of her by the sleeve, to endeavour to check her from giving that fact in evidence: That circumstance struck the persons who observed it, it is a circumstance that cannot be explained by any possibility; it cannot be imputed to folly, no art can explain it away. Those who are at all acquainted with the human mind, must feel it as speaking most forcibly, the efforts of a guilty man, to screen from the public eye, a fact, which he perceived must stamp his guilt upon every mind. That circumstance will be proved to you by people of veracity: nay gentlemen, it will be in proof to you, that after he returned to Lawford Hall with Lady Boughton, before the whole of the enquiry was over before the Coroner, he chides her for meddling in it, he checks her, says you are not to give the whole account, you are only to answer such questions as are put to you; and you must say nothing else:—say nothing else! is there any thing to be concealed? ought there any thing to be concealed? is it material for him that any thing should be concealed? yet this you will have proved to you to be the conduct of the prisoner, both before the Coroner, and upon his return to Lawford Hall.

When

When the prisoner found that the idea, of this young man having been poisoned, was so generally entertained, that there was no probability of getting rid of that suspicion, by the ridiculous pretence of his having taken cold or having died by any such means. Captain Donellan writes a letter addressed to the coroner and his jury: That letter was sent to them upon the last day of their sitting, which was the third day. This letter is very material, and I shall read it to you; it is addressed by the prisoner to the coroner and the gentlemen of the jury at Newbold.

“ GENTLEMEN,

“ My understanding from report, that you are to meet again to-day, I hold it my duty to give you every information I can recollect, respecting the business which you are upon, exclusive of what appeared before you last Saturday, when Lady Boughton and self were with you.

During the time Sir Theodosius was here, great part of it was spent in procuring things to kill rats, with which this house swarms remarkably, he used to have arsenic by the pound weight at a time, and laid the same in and about the house in various places, and in many forms; we often expostulated with him about the extreme careless manner in which he acted, respecting himself and the family in general, his answer to us was, that the men-servants knew where he had laid the arsenic, and for us, we had no business with it; at table we have not knowingly eaten any thing for many months past, which we perceived him to touch, as we well knew his extreme inattention to the bad effects of the various things he frequently used to send for, for the above purposes, as well as for making up horse medicines; he used to make up vast quantities of Golard, from a receipt which he had from Mrs. Newsam; she will give you a copy of it if you please, and it will speak for itself. Since Sir Theodosius's death the gardener collected several fish which Sir Theodosius laid—he used to split them and rub the stuff upon them; the gardener was ordered to bury the fish. The present men servants and the former ones for about two years back with William Matthews the house carpenter can relate the particulars respecting the above having been Sir Theodosius's common practice when he was able, or that he was a fishing, or attending his rabbits, or at carpenter's work. Lady Boughton, my wife, and self have shewed the utmost willingness to satisfy the public respecting Sir Theodosius' death, by every act within the limits of our power; the accompanied letter from Sir William Wheeler will testify the same, as well as our orders, that every one that came to the house should see the corpse before it was put into the coffin the 4th day, and the 8th day the corpse was sent to the vault at Newbold.

I am, Gentlemen, your most obedient humble servant,

• *Lawford, September 14, 1780.*

JOHN DONELLAN.

The materiality of this letter is, that you find the prisoner, when the idea of Sir Theodosius having been poisoned, is so far circulated, that it is universally believed, that he *then* finds it necessary to account for the death by poison, and the whole scope of that letter is to lead the jury to believe, that this young man had inadvertently poisoned himself. Now, independent of the strength of that observation, it will be in proof to you, that the letter is false in fact, for it is not true, that the family had not for many months touched of any dish that Sir Theodosius had eaten of; on the contrary, the observation was never made, and you will learn, that the whole was clearly an invention calculated to answer the purposes proposed by the prisoner in that letter.

The prisoner however, was committed upon the coroner's warrant to gaol. Since his commitment his conduct will afford very material matter for your consideration, since neither the pretence of this young man's having taken cold, and died by that means; since the invention of his having inadvertently poisoned himself, had not been adopted by any body; it was found necessary then, for the prisoner to suppose, and then for him to give out, that this young man had been poisoned by somebody else, and I shall call to you a witness who has had frequent conversations with him in the gaol, and conversations very fairly to be given in evidence here; because this man frequently cautioned the prisoner not to mention before him circumstances which may make against him, as probably he should be called to give evidence of them; but so solicitous has the prisoner been to account for this young man's death, that he has frequently to this man pressed the conversation upon him, notwithstanding he had been cautioned by the man respecting it. In one of the conversations it will be in proof to you, that Darbyshire, which is the name of the man, said to him, why do you believe that Sir Theodosius was in truth poisoned

poisoned? Says the prisoner, *I make no doubt of it: why, who do you think could have poisoned him? Why, says he, it must lie among themselves;—who do you mean? Why, says he, either Sir Theodosius himself, or Lady Boughton, or the apothecary, or the servants—it must be amongst them;—some of them did it, there is no doubt of it; why, says Darbyshire, the young man would hardly poison himself? Why no, I don't think that neither: says Darbyshire, it could not be the interest, of the apothecary, he could get nothing by it, he would loose a patient by it, and Lady Boughton could get nothing by it, besides it's being in itself the most unnatural conduct? Upon which the prisoner turned round and said, I don't know which of them, but it is amongst them.—This then affords decisive evidence, that in the prisoner's own judgment, this young man has been poisoned by somebody. But I shall add to that, another very strong piece of evidence indeed, to prove that the prisoner is quite satisfied in his mind, that Sir Theodosius was poisoned; and that is a letter, which since he has been in confinement, he wrote to Mrs. Donellan; and this letter I produce without feeling the least reluctance, because it will be proved to you that the letter was sent unsealed, in order to be delivered to Mrs. Donellan. The man who carried it, went to the prisoner, told him, Sir, you have not sealed this letter, do you mean I should carry it open? Yes, I mean that you should, and I mean that it should be made public; upon that the gentleman who carried it, opened it, took a copy of it; which copy I shall produce and read in evidence. The letter is dated “Warwick, the 8th of December, 1780.”*

Mr. Newnham, ‘Till your Lordship decides, that a copy of a letter is evidence, I submit to your Lordship, it ought not to be opened.

Court. It depends upon the manner in which they lay it before the court: they must give the best evidence that the nature of the case admits; now the custody of Mrs. Donellan in point of law, is the custody of the prisoner.

Mr. Howarth. “I am now informed that Mr. Harris's clerk is here, and hope by this time that you have removed under the friendly roof I last recommended to you, and no longer remain where you are likely to *undergo the fate of those, that have gone already by sudden means*, which providence will bring to light by-and-by: in my first letter to you from Rugby, the 14th November last, I mentioned a removal: I had my reasons; which will appear in an honest light, in March next, to the eternal confusion of an unnatural being.”

Now gentlemen, by this letter, you perceive that the prisoner is satisfied of the fact that this young man had in truth been poisoned; but for the purpose of removing the suspicion from himself, now dares to lay a charge where suspicion has never fallen: the materiality of this letter, however, is only to prove the conviction of the prisoner's mind, that this young man had in truth been poisoned; that he has been poisoned is a melancholy truth. Justice demands the punishment of the murderer; it remains only for your verdict to determine the guilt, and to consign the criminal to his fate.

EVIDENCE FOR THE CROWN.

Mr. THOMAS POWELL sworn. Examined by Mr. WHEELER.

Q. Of what profession are you?

A. An apothecary.

Q. Where do you live?

A. At Rugby.

Q. Is that near to Lawford Hall where Sir Theodosius Boughton resided?

A. It is within about three miles.

Q. Had you for any time before the death of Sir Theodosius Boughton, been employed as his apothecary?

A. Yes; for two months.

Q. When did Sir Theodosius die?

A. On the 30th of August.

Q. In what state of health was he when first you attended him?

A. He

- A. He had got a venereal complaint upon him.
 Q. To what degree?
 A. Not very high, rather slight, a fresh complaint.
 Q. Did you give him any medicine for that complaint?
 A. I gave him some cooling physick.
 Q. How long might you continue that?
 A. For about three weeks.
 Q. Did you then cease to give him physic?
 A. Yes.
 Q. For how long?
 A. More than a fortnight.
 Q. How came you afterwards to repeat the medicines?
 A. Because he had a swelling in his *share* his groin.
 Q. To what degree did that arise?
 A. To a very small one, it did not rise above the skin.
 Q. Did you give him any more medicines?
 A. Yes, four doses, two of manna and salts, the other two of rhubarb and Jalap.
 Q. Was any thing else given to Sir Theodosius Boughton?
 A. Nothing else but an embrocation to wash himself with.
 Q. When did you send Sir Theodosius the last draught?
 A. On a Tuesday the 29th of August.
 Q. By whom did you send them?
 A. Samuel Frost.
 Q. How long before you sent Sir Theodosius this last draught had you seen him?
 A. On the Tuesday afternoon, the same day I sent the last I saw him.
 Q. In what state of health did he then appear?
 A. In great spirits and good health.
 Q. How long before that had you seen him?
 A. The Sunday or the Saturday before.
 Q. In what state of health did he then appear?
 A. A very good state of health.
 Q. Did you ask him how the first of these draughts agreed with him?
 A. He told me that that, which he took on the Saturday made him sick.
 Q. You say you saw him on Sunday or Saturday, and he appeared to you in good health, and likewise saw him again on the Tuesday?
 A. Yes.
 Q. You before told us you sent this last draught by Frost, have you one of the same kind about you?
 A. I have (*produces a draught in a two ounce phial.*)
 Q. Was it a phial of the same size as this, and filled with the same ingredients?
 A. Yes.
 Q. What are those ingredients?
 A. Rhubarb and jalap, spirits of lavender, nutmeg water, and simple syrup.
 Q. I see you have another draught in your hand?
 A. Yes.
 Q. What is that?
 A. The same, except the simple water; there is the same quantity of rhubarb and Jalap.
 Q. What is added to that?
 A. Laurel water.
 Q. You mentioned before, that this was sent upon the Tuesday; it was, I think, upon the Thursday that Sir Theodosius Boughton died?
 A. No; on Wednesday morning.
 Q. Was you then sent for to Lawford Hall?
 A. On the Wednesday morning I was.
 Q. At what time?
 A. About eight or nine o'clock.
 Q. Who was the person that came for you?
 A. William Frost.
 Q. The same man that you had before sent the draught by?
 A. No; his name was Samuel Frost.

Q. What message did he bring to you?

A. He said Sir Theodorus was very ill, and that he was sent by Lady Boughton to fetch me; I went immediately.

Q. What time might it be when you got there?

A. Nearly nine o'clock.

Q. When you got to Lawford Hall, did you go into the room where Sir Theodorus was?—A. I did.

Q. Who did you find there?

A. I met Capt. Donellan in the court-yard, he went along with me into the room.

Q. Who were in the room besides you and Mr. Donellan?

A. Some servant, I cannot tell which.

Q. Who else was there?—A. Nobody else.

Q. Was Lady Boughton there when you first came?

A. Not when I first came.

Q. In what situation did you find Sir Theodorus Boughton?

A. I saw no distortion.

Q. What did you see?—A. Nothing particular.

Q. Was he alive or dead?—A. He had been dead near an hour.

Q. Did Mr. Donellan ask you any questions?—A. He asked me no questions at all.

Q. How long might you remain with him in the room?

A. I cannot tell exactly, for some minutes.

Q. Did you say any thing to him?

A. I asked him how he died. Captain Donellan told me, *in convulsions*.

Q. Did you see any thing of the bottles you had before sent?

A. I saw nothing of them; they never were mentioned.

Q. Were they in the room?—No.

Q. Had you any farther account than what you have now mentioned given you by any body of the manner of Sir Theodorus's death?

A. No other than that he died of convulsions.

Q. Do you remember having any other conversation with Mr. Donellan, about Sir Theodorus?—A. I don't know the particular words he made use of; but his general intent was to make me believe that *Sir Theodorus Boughton had taken cold*.

Q. Are you acquainted with Mr. Donellan's hand-writing?—A. Yes, I am.

Q. Have you often seen him write?—A. I have seen him write.

[Several letters were shown the Witness, which he deposed were the Prisoner's hand writing.]

Q. I believe you mentioned the quantity of ingredients you mixed up?

A. Fifteen grains of each.

Mr. Thomas Powell cross-examined by Mr. Newnham.

Q. Describe exactly the proportion of the several ingredients.

A. Fifteen grains of each, of rhubarb and of jalap; spirits of lavender, twenty drops; nutmeg water, two drachms; two drachms of simple syrup, and an ounce and a half of simple water.

Q. Then there are two ounces only of liquor, except the twenty drops of lavender?

A. Yes.

Q. You had given one of these draughts on the Monday?—A. Yes.

Q. What effect had the first medicine you gave him?

A. It purged him very well, and agreed with him very well; he had many stools.

Mr. Heworth. Did it make him sick?

A. Not at all; it agreed with him very well: it was on the Saturday it made him sick; and in consequence of that, I changed the physic from manna and salts to rhubarb and jalap.

Mr. Newnham. You say that Mr. Donellan told you, that Sir Theodorus died of convulsions, and that was all the conversation about it?—A. Yes.

Q. Did it not occur to you, as a physical man, to enquire when these convulsions commenced, and when Sir Theodorus died?

A. The convulsions took place soon after the draught was taken.

Q. What idea have you of *soon*?—A. A quarter of an hour, or sooner.

Q. Do you know for certain?—A. I do not.

Q. Why did not you enquire?—A. I did enquire.

Q. You saw Lady Boughton?—A. Yes.

Q. Had you no conversation with her?

A. Yes; she said he was convulsed soon after he took the medicine.

Q. Did not you enquire how soon?—A. He was convulsed almost immediately.

E

Lady

Lady ANNA MARIA BOUGHTON sworn. Examined by Mr. HOWORTH.

Q. How old was Sir Theodosius Boughton?

A. Twenty years of age the 3d of August last.

Q. What fortune would your son have been intitled to upon his coming of age?

A. Above 2000 l. a year.

Q. Upon the event of his dying before he came of age, what would then become of the fortune?

A. The greater part of his fortune would have descended to his sister.

Q. Who, I understand, married Mr. Donellan?—A. Yes.

Q. How long had Mr. Donellan resided in your family at Lawford-Hall?

A. From some time in the year 1778; from about the month of June.

Q. How long had your son, Sir Theodosius, made part of your family at Lawford-Hall, before his death?

A. In the year 1778, he came from Mr. Jones's, a tutor of his, and came to live at Lawford-Hall.

Q. Have you at any time had conversation with the Prisoner, Mr. Donellan, respecting the state of your son's health? and about what time was that conversation held?

A. Several times before the Deceased's death he spoke to me about Sir Theodosius's health.

Q. What were the expressions used by him when he talked upon the bad health of your son?

A. He said, *Don't talk about leaving Lawford-Hall; something or other may happen; he is in a very bad state of health; you cannot tell what may happen before that time.* I thought he meant his being so very venturous in going a hunting, and the like.

Q. Do you know of any intentions in Sir Theodosius to have gone to a friend's in Northamptonshire, and to have staid there for any time?

A. He expected Mr. Fonnereau to come to Lawford-Hall the latter end of that week in which he died.

Q. I believe Mr. Fonnereau did in fact come?

A. Yes, he did.

Q. When?

A. He came, I believe, on the Friday night.

Q. Had you heard from Mr. Donellan any thing respecting the stay that Sir Theodosius would probably make in Northamptonshire?

A. I don't recollect.

Q. Was his stay intended to be long or short?

A. My son said Mr. Fonnereau was to stay with him a week, then my son was to return with him to Northamptonshire.

Q. Was he going to stay a long or short time there?

A. He did not say how long.

Q. Mr. Powell, we have heard, was the apothecary who attended him. Do you recollect any draughts being sent to Sir Theodosius on Tuesday the 29th of August?

A. The servant was sent on Tuesday for the bottles. Upon enquiry where the servant was, Mr. Donellan said, O, Sir The. *has sent him a second time for the bottle of stuff.*

Q. It was known in the family, that Sir Theodosius was to take his physic next morning?

A. Yes, it was.

Q. Does your Ladyship know where Sir Theodosius used to keep the physic that was sent him?

A. He used to put it in his dressing-room. He happened once to forget to take it. Mr. Donellan said, *Why don't you set it in your outer room? then you would not so soon forget it.*

Q. Do you know whether in fact that advice was followed? Where were the medicines kept after that?

A. He had several after that upon his shelf over his chimney-piece in his outer room.

Q. Where did Sir Theodosius go on the evening of Tuesday the 29th?

A. I saw him in the afternoon; he went a fishing.

Q. About what time did he go?

A. About six o'clock.

Q. Did you see him shortly before he went?

A. No, I did not.

Q. After he had gone out a fishing, what men servants were left behind in the family?

A. The gardener and the coachman, and John the footman.

Q. Were there either of the men servants with Sir Theodosius a fishing?

A. Yes; Samuel Frost was the only one.

Q. What

Q. What became of yourself and Mrs. Donellan?

A. She and I went to take a walk in the garden.

Q. How long do you think you and Mrs. Donellan were out in the garden?

A. Above an hour.

Q. When was it that you had last seen Mr. Donellan before you walked in the garden, and where?

A. To the best of my remembrance I saw nothing of him after dinner.

Q. Do you remember whether he joined you in your walk in the garden, and about what time?

A. He came about seven o'clock out of the house door to me and Mrs. Donellan, and told us that *he had been to see them a fishing, and that he would have persuaded Sir The. to come in, least he should take cold; but he could not.*

Q. Do you recollect at what time Sir Theodosius came home?

A. A little after nine o'clock.

Q. Was he then apparently in health?

A. He then seemed very well.

Q. How did he dispose of himself till he went to bed, and at what time did he go to bed?

A. He went up to his own room soon after he came in.

Q. Did he eat any supper?

A. A little. I told him I was going up into my room. As I was going up stairs he called me into his room, and desired my permission to make use of my servant to go next morning with the net, as he expected his friend Mr. Fonnerau to come. He went to bed.

Q. How did he appear at that time in his health?

A. He seemed very well.

Q. What time did you see him next morning?

A. About seven o'clock.

Q. Did you go into his room at that time?

A. He had desired me to call him, as I went by his room in the morning, and give him his physic.

Q. At that time in the morning how did he appear as to his health?

A. He appeared then to be very well.

Q. Give the Jury an account of the physic you gave him, and the manner of its operation.

A. I asked him "Where the bottle was:" he said *it stood there upon the shelf.* First of all he desired me to get him a bit of cheese, in order to take the taste out of his mouth, which I did: he desired me to read the label; I accordingly did, and found there was written upon it, *Purging draught for Sir Theodosius Boughton.*

Q. When you gave him the draught, did he make any, and what observations upon it?

A. As I was talking to him I omitted shaking the bottle: he, observing that, said, *Pour it back again, and shake the bottle,* and in so doing I spilt part of it upon the table: the rest I gave him. As he was taking it, he observed *it smelt and tasted very nauseous;* upon which I said, "I think it smells very strongly like bitter almonds." I gave him the cheese; he chewed it, and spit it out. He then remarked *that he thought he should not be able to keep the medicine upon his stomach.* I asked him "if he would have some water;" I gave him some. He washed his mouth, and spit that out, and then laid down.

Q. Please to open that bottle, [Giving Lady Boughton the genuine draught] and smell at it, and inform the Court whether that smells at all like the medicine Sir Theodosius took.

A. No, it does not.

Q. Please to smell to this, [Giving Lady Boughton the draught with the laurel water added to it.]

A. This has a smell very like the smell of the medicine which I gave him.

Q. What was the first observation your Ladyship made of any appearances upon Sir Theodosius after taking the medicine?

A. In two minutes, or a minute and an half, after he had taken it, he struggled very much; it appeared to me, as if it was to keep it down; and made a prodigious rattling in his stomach, and guggling; and he appeared to me to make very great efforts to keep it down.

Court. How did he make a rattling?

A. A noise in his stomach as if it would come up again.

Q. How long did you observe these symptoms continue?

A. About ten minutes; he then seemed as if he was going to sleep, or inclined to doze. Perceiving him a little composed, I went out of the room. I returned in about five minutes after into his room; then, to my great surprise, I found him with his eyes fixed upwards, his teeth clenched, and froth running out of each corner of his mouth.

Q. What did you do upon that?

A. I ran down stairs, and told the servant to take the first horse he could get, and go immediately for Mr. Powell.

Q. Was any other person sent for?—No.

Q. When did you first see Mr. Donellan after that?

A. I saw him in less than five minutes; he came up to the bed-chamber where my son was, and asked me, *What do you want?* I said “I wanted to inform him what a terrible thing had happened; that it was an unaccountable thing in the doctor to send such a medicine, for if it had been taken by a dog, it would have killed him; and I did not think my son would live.” He asked in *what manner* Sir The. *was taken*; and I told him. Then he asked me *where the physic bottle was?* I shewed him the two draughts. He took up one of the bottles, and said, *is this it?* “Yes,” said I. He took it up, poured some water out of the water bottle, which was just by, into the phial, shook it, and then emptied it out into some dirty water which was in a wash-hand basin.

Q. Did you make any observation upon that conduct?

A. After he had thrown the contents of the first bottle into the wash-hand basin of dirty water, I observed “that he ought not to do that.” I said “What are you at? you should not meddle with the bottle.” Upon that he snatched up the other bottle, and poured water into it, and shook it; then he put his finger to it, and tasted it. I said, “What are you about? you ought not to meddle with the bottles.” Upon which he said, *I did it to taste it.*

Q. Had he tasted the first bottle?

A. No.

Q. Did any of the servants come up into the room?

A. Yes, Sarah Blundell and Catherine Amos.

Q. What is become of Sarah Blundell?

A. She is dead.

Q. Upon their coming up, was any thing said or done by Mr. Donellan that particularly called your attention to it?

A. He desired Sarah Blundell to take away the basin, the dirty things, and the bottles; and he put the bottles into her hand.

Q. What did you say to that?

A. I took them out of her hand, set them down, and bid her let the things alone.

Q. Did you at that time assign any reason why they should be left there, and for what purpose?

A. I did not.

Q. What was done upon that?

A. He then desired that the room might be cleaned, and the clothes thrown into an inner room. I opened the door of the inner room. As soon as Sarah Blundell had put the clothes into the inner room, Mr. Donellan, while my back was turned, put the bottles into her hand again, and bid her take them down; and was angry she had not done it at first.

Q. Did you see the bottles put into her hand the second time?

A. I did not.

Q. Did you hear any order given by him?

A. No; but Sarah Blundell told me so.

Q. Then all you know, in fact, is, that they were taken out of the room?

A. They were.

Q. You did not see who took them out?

A. No.

Court. Did you see who first left the room after the clothes were put into the next room?

A. Sarah Blundell left it first.

Q. How soon did you perceive that the bottles were gone?

A. I did not observe it directly.

Q. But how soon did you find out that they had been removed?

A. I cannot tell the time.

Q. Before you left the room yourself, did you discover that the bottles were gone?

A. I did not.

Mr. Heworth. When all this happened—the washing the bottles, and removing the clothes—was Sir Theodosius Boughton dead?

A. He was nearly dead; one of the maids was wiping the froth off his mouth, and his stomach at that time heaved.

Q. In the course of that morning, do you remember having said any thing to Mr. Donellan, or he to you, as to the suspicions entertained of the medicine he had taken?

A. Sometime afterwards I was down in the parlour; Mr. Donellan and my daughter were there: Mr. Donellan, in my presence, said to his wife, that *her mother* (meaning me) *had been pleased to take notice of his washing the bottles out, and that he did not know what he should have done if he had not thought of saying he put the water into it, to put his finger to it to taste.*

Q. What passed farther upon that?

A. I turned away from him to the window, and made no answer to it; upon which he again repeated the same.

Q. What happened then?

A. As I made no answer, *he desired his wife to ring the bell, in order to call up a servant:* when the servant came, he ordered that servant to send in Will the coachman.

Q. Did the coachman come?

A. He did.

Q. Relate what passed between Mr. Donellan and the coachman.

A. When the coachman came, Mr. Donellan said, *Will, don't you remember that I set out of these iron gates this morning about 7 o'clock?* “Yes, Sir,” said he—*you remember that, don't you?* “Yes, Sir.”—*And that was the first time of my going out: I have never been on the other side of the house this morning: you remember that I set out there at 7 o'clock this morning, and asked for a horse to go to the Wells?* “Yes, Sir.” Mr. Donellan said, *then you are my evidence:* the servant answered, “Yes, Sir.”

Q. Did Mr. Donellan make any other observation which called your attention?

A. None that I recollect.

Q. Do you remember Mr. Donellan's receiving a letter from Sir William Wheller—and when was the first letter he received from Sir William?

A. He received a letter from Sir William Wheller, desiring the body might be opened.

Q. Do you remember being shewn the answer to that letter?

A. Yes; I do.

Q. Who shewed it you?

A. Mr. Donellan.

Q. Do you recollect having made any observation upon his answer, which he sent Sir William Wheller after Dr. Rattray and Mr. Wilmer had been there?

A. I remember he read the letter: I thought it of no use; that it would be unnecessary to send it.

Q. Did you state any reason why the letter was to be objected to?

A. I did not. I said “he had better let it alone, and not send such a letter as that.”

Q. You disliked the letter; but the reason of your dislike you did not explain to him?

A. No; but he said *it was necessary to send an answer, and he would send it.*

Q. Do you recollect upon what day Sir Theodosius was buried?

A. He died on the Wednesday morning, and was buried on the next Wednesday.

Q. Do you remember, afterwards, attending before the Coroner and his Jury, in order to be examined?

A. I do.

Q. Was Mr. Donellan present at that examination?

A. Yes; he was.

Q. Did you mention to the Jury, in your account there, the circumstance of the Prisoner's washing the bottle?

A. I did.

Q. When you returned home to Lawford-Hall, had you any conversation with Mr. Donellan respecting that circumstance?

A. He said to his wife, before me, *that I had no occasion to have told of the circumstance of his washing the bottle—I was only to answer such questions as were put to me—and that question had not been asked me.*

Q. On the morning of the death of your son, did Mr. Donellan endeavour to account to you, by any means, in any way, for what had been the occasion of his death?

A. When the things were removing away, to be put into the inner room, he said to the maid, *Here, take his stockings; they have been wet; he has caught cold, to be sure; and that*

that might occasion his death. Upon that, I examined the stockings; and there was no mark nor appearance of their having been wet.

Q. I presume that you, Sir Theodosius, Mr. Donellan, and the family, dined together at the same table?

A. Yes.

Q. For some time before the death of Sir Theodosius, had there been any attention in you and the other part of the family, not to eat of the same dish that Sir Theodosius eat of?

A. We ate of the same dishes.

Q. Was there any fear or apprehension entertained by you, or by any person else expressed to you, of your being in danger of being poisoned?

A. Mr. Donellan recommended to me not to drink out of the same cup, because he was affected with a venereal disorder; nor to touch the bread he did, because there might be arsenick about his fingers, as he used to put arsenick for his fish.

Q. But no such attention was paid as to things brought to table to eat?

A. No.

Lady ANNA MARIA BOUGHTON *cross examined by Mr. NEWHAM.*

Q. When was it that your Ladyship and Sir Theodosius went to Bath?

A. The 1st of November, 1778.

Q. Did you go upon a visit to Capt. Donellan and his Lady?

A. They asked me to go.

Q. When did you hear Capt. Donellan say that your son was in a bad state of health—how long before his death?

A. He often talked about it for three weeks or a month before the time of his death.

Q. That was only after he had been attended by Mr. Powell for a recent complaint; but before that you was pleased to say Mr. Donellan often expressed to you that Sir Theodosius was in a bad state of health?

A. Yes; that he was in a bad way, or that something or other would happen to him.

Q. How long before was that?

A. That was about a fortnight or three weeks before.

Q. Had not you yourself apprized Mr. Donellan and his Lady, long before this, that your son was in a bad state of health?

A. I had said that my son had been ill of a particular disorder.

Q. Had not you written to Bath in the year 1777, and in 1778, "that his fine complexion was gone, and he was in a very bad way?"

A. I said "I was afraid he was in a bad way, for his complexion was altered."

Q. I quote your words, "his fine complexion was gone"?

A. Yes.

Q. At what time did you go to Bath?

A. The 1st of November, 1778.

Q. You had previously informed Mr. Donellan, that your son was in a bad state of health?

A. Yes.

Q. Sir Theodosius went with you to Bath?

A. Yes.

Q. Do you recollect a quarrel that happened between Sir Theodosius and a gentleman at Bath?

A. Yes; and Mr. Donellan interfered to prevent any thing happening.

Q. Does not your Ladyship recollect a quarrel that your son had at Rugby?

A. Yes.

Q. Pray who was sent for upon that occasion?

A. Mr. Donellan.

Q. Did not your Ladyship go to Mr. Donellan's room door, and early in the morning press him to go over immediately?

A. Yes.

Q. Did not you put the letter under the door?

A. I wrote a letter, and had it put under the door, desiring him to go to Rugby, on account of a quarrel that had happened there.

Q. Did Mr. Donellan interfere, and prevent any mischief happening there?

A. He told me he did.

Q. Now as to a third quarrel; whether he had not another quarrel with a gentleman at Daventry?

A. They were both at Rugby.

Q. With a Mr. Wildgoose, of Daventry, at Rugby?—A. Yes.

Q. Was there not a quarrel with Mr. Chartres?

A. Yes, at that time, I believe, but I am not certain.

Q. Don't you recollect your son telling you that he went up at Newbold to the top of the church steeple; and that if it had not been for Mr. Donellan, who caught him in his arms, he must have broke his neck?

A. He did not tell me that.

Q. Did not he tell you he went up to the top of the church?

A. Yes. But he did not tell me about being in any danger.

Q. Did not your Ladyship, when he told you he had met with an accident, and an escape, enquire into the particulars of it?

A. I don't remember that he did tell me so.

Q. Do you remember no circumstance—don't you remember his mentioning that part of the church tumbling down when he was at the top of the church?—A. No.

Q. Did not you return home together in the coach—and did not he mention it in the coach to you that he had been at the top of the church, and had fallen in going up to the weather-cock?

A. I don't remember any thing of it.

Q. What time in the morning was it that your Ladyship arose, upon the 30th of August?

A. About six o'clock, I believe.

Q. On the day before you said Sir Theodosius had been fishing?—A. Yes.

Q. What time did he return home?

A. At a little after nine o'clock, I believe.

Q. Did not your Ladyship express some anxiety about his being out so late?

A. I sent to him; he did not come. I said, "Tell him I want to speak with him."

Q. Do you recollect whether Mr. Donellan was or not gone to-bed, before Sir Theodosius returned?

A. I believe he was.

Q. Was not your Ladyship and Mr. Donellan to ride out together the next morning?

A. The Prisoner asked me to go with him to the Wells. I agreed to go.

Q. Did not Mr. Donellan ask your Ladyship, under your window, *If you was ready?*

A. As I passed by the window that looks into the court, I heard Mr. Donellan call out, *Is your Ladyship ready to ride out?* I said, "I shall be ready in about a quarter of an hour: I am going to put my things on." He said, *He would go to the Wells.*

Q. That is, after you left your son's room, when you thought he was going to sleep?

A. Yes.

Q. How happened it, after your son had had these convulsive appearances, and had frightened your Ladyship so much, that you did not at that time disclose to Mr. Donellan that he was in that condition, and you could not ride out?

A. I thought he appeared as if he was going to sleep; it went off, and he seemed going to doze: so I imagined it was only his violent efforts to prevent bringing up the physic.

Q. You said it was in less than two minutes after he took the medicine, that those appearances came upon him?

A. In two minutes and a half, or less.

Q. Did your Ladyship give Sir Theodosius his physic upon the Monday?—A. No.

Q. You was not in the habit of giving it to him?

A. Now and then I did.

Q. You recollect his saying it had a very nauseous taste?—A. Yes.

Q. And a very nauseous smell?

A. An ugly taste and an ugly smell.

Q. Did your Ladyship ever mention, when examined before the Coroner, this fact, that Mr. Donellan said, *I should not have known what I should have done, if I had not thought of saying, that I did it to put my finger in to taste?*

A. I did mention this before the Coroner. My evidence was, he said, that I told him of his washing it. I asked him why he did so. He said, he did it to put his finger to it to taste.

Q. I asked your Ladyship whether you disclosed before the Coroner, that Mr. Donellan told Mrs. Donellan, in your hearing, that, if he had not thought of saying that he did it to put his finger in to taste, he should not have known what to have done. Did you mention that circumstance before to the Coroner?—A. Yes.

Q. And swear it?—A. Yes.

Q. I believe you was examined a second time. Was it upon the first or second examination?

A. I am not certain.

Q. Was your examination read over to you before you signed it?—*A.* Yes.

Q. I wish to ask your Ladyship again whether this circumstance was disclosed in your evidence?

A. I said he told me that he did it to taste.

Q. Your examination was read—There is no such thing as that contained in it.—Did you mention the circumstance of the coachman being sent for into the parlour, and Mr. Donellan's asking him if he did not remember his going out at the iron gates at seven o'clock in the morning; and upon the servant's answering in the affirmative, Mr. Donellan's saying, Will, now you are my evidence—was that mentioned by your Ladyship before the Coroner?

A. I mentioned it to Mr. Caldecot; but whether I mentioned it before the Coroner, I cannot remember.

Q. Tell me the analogy, if you can, between the conversation that Mr. Donellan had with Mrs. Donellan in your presence, and his immediately sending for the coachman to know if he was up at seven o'clock, or no. Did any conversation pass that led to that?

A. Not that I know.

A. You said something about Mr. Donellan's mare. One of the servants informed you that the mare was about the house. In point of fact, did not the servant go upon Mr. Donellan's mare to fetch Mr. Powell?

A. I was not in the yard to see.

Q. Do you not know that as a fact?

A. I did not see him go.

Q. Did you see him return?

A. No. I did not.

Q. You told Mr. Howorth that Mr. Donellan put the bottle a second time into the hands of Sarah Blundell—was that circumstance disclosed in your evidence before the Coroner?

A. I do not recollect.

Q. Whether you don't know that Sir Theodosius did amuse himself in laying poison for fish?

A. Sir Theodosius did sometimes amuse himself in laying poison for fish.

Q. Where was it he put those things that he used to amuse himself with? I won't mince the matter,—Don't you know of his buying large quantities of arsenic?

A. He sent for a pound; and after he was dead, a quantity of arsenic was found in his closet.

Q. Where did he use to keep that?

A. In his inner closet.

Q. Which was sometimes locked?

A. Mostly.

Mr. Howorth. You have been asked of instances of friendship shewn by Mr. Donellan to your son—what was Mr. Donellan's general behaviour for some months before he died—did he treat Sir Theodosius with respect, friendship, and tenderness, or otherwise?

A. About a fortnight before my son's death, I heard—

Court. Have you heard your son say any thing about Mr. Donellan's behaviour at the time when he gave you the relation mentioned by Mr. Newnham?

A. They used to have words, to be angry with each other; they did not in general live in friendship or intimacy.

Mr. Newnham. It was your Ladyship's house?—*A.* Yes.

Q. I presume they had those sort of words that occasionally happen in all families, more or less?

A. I paid no great attention to it.

Court. At the time you mentioned when you came down into the parlour, Mr. and Mrs. Donellan were both there?—*A.* Yes.

Q. How long had Mr. Donellan been gone out of the room where Sir Theodosius died, before you went into the parlour?

A. Not long. I went into my own room first.

Q. After you got into the parlour, was there any conversation between you and the Prisoner, previously to his saying you had been pleased to take notice of his washing the bottles?

A. I do not recollect any; but he was talking to Mrs. Donellan.

Q. Was that spoken in any passion or repentment, or how?

A. Rather in a way of repentment.

CATHARINE AMOS *sworn.* Examined by Mr. GRAY.

Q. Did you live at Lawford-hall at the time of the death of Sir Theodosius Boughton?

A. Yes.

Q. In what capacity?

A. I was cook.

Q. Was you sent for by Lady Boughton?

A. I was sent for to my lady, by the other maid, Sarah Blundell, who is dead. I was called up stairs into that room where Sir Theodosius lay.

Q. When you came into the room in what situation was Sir Theodosius Boughton?

A. He did not stir hand or foot, but frothed at his mouth. I wiped the froth

four or five times from his mouth.

Q. Was the body motionless?

A. The stomach heaved very much.

Q. Was there any noise.

A. He guggled at the throat.

Q. Give an account of any other circumstances that you observed?

A. I did not observe any thing more.

Q. Where did you go to from thence?

A. I went below stairs about my work. My work lay below stairs.

Q. How long afterwards was it before you saw Mr. Donellan?

A. It might be about a quarter of an hour. I saw him in the passage. Mr. Donellan said, "*Sir Theodosius was out very late over night a fishing, that it was very silly of him, as he had been taking such physick as he had been taking of, before time.*"

Q. That is before that time?

A. Yes.

Q. Did he give any reason why he had been out so late a fishing?

A. No.

Q. Did he say any thing more at that time?

A. Not to the best of my knowledge.

Q. Did you see Mr. Donellan the day that the body was opened?

A. Yes.

Q. What did Mr. Donellan say at that time?

A. He said *there was nothing the matter, that it was a blood vessel had broke which had occasioned Sir Theodosius's death.*

Q. Did Mr. Donellan bring any thing to you at or about the time of Sir Theodosius's death?

A. No.

Q. At any time before his death?

A. No, nothing at all.

Q. Did he never bring you any thing for any purpose?

A. No.

Q. Was any thing brought to you by Mr. Donellan within a fortnight or three weeks before the death of Sir Theodosius Boughton?

A. No.

Q. *Counsel for the Prisoner to Lady Boughton.* Did Sir Theodosius Boughton speak at all after he had taken the medicine?

A. *Lady Boughton.* Not at all.

Q. *Counsel to Catherine Amos.* You said you was cook maid?

A. Yes.

Q. Was the oven under your direction?

A. Yes.

Q. Was any thing brought to you at any time?

A. Yes, a still.

Q. Who brought it?

A. Mr. Donellan.

Q. When was it?

A. Sometime after Sir Theodosius's death.

Q. How long after?

A. To the best of my remembrance it might be a fortnight.

Q. What was there in it?

A. Nothing. It had been washed. He desired me to put it into the oven to dry it, that it might not rust; I said if I put it in then it would unfold it, as it was made of tin.

The Rev. Mr. NEWSAM sworn. Examined by Mr. DIGBY.

Q. Did you see Captain Donellan at any time, and when before the death of Sir Theodosius Boughton ?

A. On the Saturday preceding Sir Theodosius's death I saw him at Lawford Hall.

Q. Had you any conversation with him ?

A. I had.

Q. Relate what that conversation was ?

A. He informed me, *Sir Theodosius was in a very ill state of health, that he had never got rid of the disorder that he had brought with him from Eaton, but rather in his opinion had been adding to it ; that he had made such frequent use of mercury, inwardly and outwardly, that his blood was a mass of mercury and corruption ; that he had had a violent swelling in his groin, which they were endeavouring to bring to an head, but he was so obstinate that he would not live well enough to do it ; that they were fearful it would return into his blood, for at that time it was at a crisis ; that he had frequent swellings in his throat, and his breath was so offensive, they could hardly sit at table to eat with him ; that his intellects at intervals were so much affected that nobody knew what it was to live with him.* My answer was, " that if that was the case, I did not think his life was worth two years purchase." He replied, *Not one.* I asked him, " What advice he had ?" He told me, *he was attended by Mr. Powell the apothecary of Rugby, and that his medicines were made up by Mr. Powell, from a prescription of Mr. Kerr's, which he had wrote he was at Mr. Jones's ; that he had given him a medicinal book, called the Family Physician, which he was very fond of consulting.*

Q. Were you well acquainted with this family ?

A. Very well.

Q. Perhaps you can tell, from the appearance of Sir Theodosius Boughton, what was the actual state of his health at this time, and for some time before ?

A. He looked like a man to all appearance in health ; he did not look so florid as he had done.

Q. Had you any reason from his countenance, spirits, or any thing else, to imagine him to be in a bad state of health ?

A. He was in good spirits and looked very well, but did not look so florid as he had done.

Q. Do you know upon what terms Captain Donellan and Sir Theodosius Boughton lived for some time preceding the death of Sir Theodosius ?

A. That I cannot speak to. I had been absent from that country the four preceding months.

The Rev. Mr. NEWSAM Cross-examined by Mr. GREEN.

Q. Sir Theodosius Boughton had been under the care of Mr. Kerr, had he not ?

A. I believe he had whilst he was with Mr. Jones.

Q. Mr. Kerr, is I understand, an eminent surgeon at Northampton ?

A. Yes.

Q. Mr. Donellan told you Mr. Powell made up his medicines by the prescriptions from Mr. Kerr ?

A. Yes.

Q. Whether you had not a letter from Mr. Donellan ?

A. I had.

Q. Have you it in your pocket ?

A. It is in court.

Q. When did you receive it ?

A. I cannot recollect ; it was one of the days, I believe when the coroner's jury were sitting ; when the body was opened I gave it up the morning of that day.

Mr. WILLIAM KERR sworn. Examined by Mr. HOWORTH

Q. You I understand are a surgeon and live at Northampton ?

A. Yes.

Q. Do you recollect having attended Sir Theodosius Boughton when he was at Mr. Jones's ?

A. I do.

Q. Was

Q. Was the disorder for which you attended him at that time completely cured or not?

A. I really saw no disorder; there was upon the prepuce or glands, I do not recollect which, a small wart or excrescence, very immaterial indeed; it was so slight that I did not consider it as a subject of medicine at all. I ordered some lotion to wash it with, and nothing else, and dissuaded him from the use of medicine.

Q. Was the state of his body such that you judged it necessary to give him a prescription to take medicines by?

A. I gave him a prescription for the lotion, but none for internal medicines.

Q. When he went from under your care you considered him as by no means disordered?

A. I considered him as having no venereal complaint.

Mr. KERR Cross-examined by Mr. NEWNHAM.

Q. In common parlance is not a lotion a medicine?

A. Certainly.

Dr. RATTRAY sworn. Examined by Mr. BALGUY.

Q. You are, I believe, a physician at Coventry?

A. I am.

Q. Do you remember, on the 4th of September, last receiving any message from any person, and from whom, to come to Lawford-hall?

A. On the 4th of September, in the afternoon, I received an anonymous note, I mean a note not signed by any person, desiring me (I forget the particular phrase used) but it was to go to Lawford-hall, in order to open the body of Sir Theodosius Boughton.

Q. Have you got that note?

A. No. I did not preserve it; as it was not signed I conceived it immaterial. The note imported that I was likewise to bring Dr. Wilmer with me, by which I understood Mr. Wilmer the surgeon. Mr. Wilmer happened to be out of town that afternoon. As soon as I could find him and bring him back to Coventry we set out and went there together.

Q. At what time in the evening was it when you went?

A. I cannot say the exact hour; it was getting dark, and it was dark when we arrived there.

Q. When you arrived there did you or not find Captain Donellan?

A. The first object I saw was Captain Donellan in the passage, with a candle in his hand; he was amongst the first persons in the house that received us, and in the hall I think.

Q. What passed between Captain Donellan and you upon your coming there?

A. As Captain Donellan lighted me into the parlour, he said, *have you heard from, or seen, Sir William Wheeler?* I said, "I had not." I believe he afterwards added, *I rather expect Sir William will be here, or if he does not come I shall hear from him.*

Q. Did he add that he expected to hear from him or expected him to be there?

A. Yes, that he expected either one or the other.

Q. Did he say any thing further?

A. We were asked to eat of what they had in the house, they had supped; and the coffin in the mean time was ordered to be unfolded, and we begged we might know when that was done; as soon as we had ate a little they came and informed us that the coffin was open.

Q. But before you went to see the corps, after the coffin was unfolded, was there or not any letter shewn you by Captain Donellan?

A. I saw a letter from Sir William Wheeler, in answer as I understood to a message which Captain Donellan had sent, requesting of Sir William to come and see the body opened.

Court. Was that letter shewn you by the prisoner?

A. Yes; when I came into the hall, Mr. Powell the apothecary stood by a great table reading a letter; Captain Donellan turned it up and saw the direction was to him; Mr. Powell said, "by mistake he had opened it."

Q. Did you read it?

A. I read part of it; it was that part of the letter in which Sir William excused himself from coming to Lawford-hall, saying he conceived no person was proper to be there but

but the surgeon and physician sent for; no name was mentioned in particular, only *surgeon and physician*.

Q. Did Captain Donellan at that time speak of any other letter he had received from Sir William Wheeler?

A. He searched in his waistcoat pocket about that time for a letter, but instead of it pulled out a cover; by a slight glance I had of it I thought the direction was Sir William Wheeler's hand writing; but I never saw any other letter but this I have just spoken of.

Q. Can you tell whether this (*showing a letter to the witness*;) is the letter which Captain Donellan then shewed you?

A. Yes; here are the very words I mentioned, *surgeon and physician*, in it. I just glanced it over; it was late and I wished to get over such little matters as these.

Q. In consequence of having seen that letter, what did you and Mr. Wilmer proceed to do?

A. After some little conversation about that letter, Captain Donellan said *the letter was exceeding polite; that the first letter he received was much the same as this*; Captain Donellan at the bottom of the stairs said, *Gentlemen, you will excuse me, or to that effect*, upon which we walked up stairs. Mr. Wilmer went in first I believe; he came out of the room testifying some surprise as I entered the door; I immediately entered and saw the body for the first time.

Q. Did you use any expressions of any sort, at the time of your seeing the body, to Captain Donellan?

A. I went into the room and looked at the body several times and came out to Mr. Wilmer; he seemed to think it would answer no purpose to open the body at that time, and as we asked Captain Donellan "for what purpose it was to be opened?" and he said *it was for the satisfaction of the family*; we thought it at so late a period, and it being only for that purpose that it was of no use, therefore we waved it.

Q. Had Captain Donellan said the opening it was for the satisfaction of the family?

A. Yes; he told Mr. Wilmer so, and I think when I went up the same speech was repeated to me.

Q. Did he mention any other purpose for which the body was to be opened except the satisfaction of the family?

A. None to me that I recollect.

Q. Did he at that time intimate to you any suspicion of poison?

A. No; nothing of the sort.

Q. In consequence of this you did not in fact open the body?

A. We did not open the body.

Q. How soon after this was it that you was again sent for upon this melancholly occasion?

A. On the 9th of September; I think it was on a Saturday.

Q. Who did you receive a message from at that time?

A. I really do not know; I received a message by some strange round-about way, in consequence of which I went, but I don't know who sent it. Mr. Wilmer and I went in company; we met Mr. Bucknill, Mr. Powell, of Rugby, and Mr. Snow, of Southam; those were all the physical people I believe. Mr. Bucknill opened the body.

Q. Were did you meet at that time?

A. In the church-yard at Newbold.

Q. The body had then been interred?

A. It had been in the vault at Newbold as I understood.

Q. What passed at that time?

A. We proceeded to the opening of the body as soon as we conveniently could, and inspected as far as we were able the appearances of the body.

Q. What were the material appearances that struck you at that time?

A. The material appearances where, in the first place, the body appeared upon a general view swoln or distended a good deal; the face of a round figure extremely black, with the lips swelled and retracted and shewing the gums; the teeth black except a small white speck on one of the fore teeth; the tongue protruding beyond the fore teeth, and turning upwards towards the nose; the blackness descended upon the throat, gradually diminishing as it got towards the breast, and the body was spotted in many parts but not very material. There was another circumstance which for decency I have omitted, but if called upon I am ready to mention.

Mr. Balguy. That circumstance is not at all material. I meant to ask you merely to such appearances as were material. Were there any appearances upon the body sufficient to cause or confirm an opinion you may by and by give upon the subject?

A. We

A. We proceeded to open the body, and in dissecting the skin the fat appeared in a dissolving state a little watery, on getting into the cavity of the belly the bowels in the lower belly seemed to put on the appearance of inflammation. I choose to make use of the vulgar term *appearance*, in order to convey a general idea of the appearance things in that state generally put on.

Q. Was it so with the stomach too?

A. Yes; the orifices of the stomach and the small arch of the stomach; the heart upon opening the pericardium, the membrane which encloses it, appeared to be in a natural state; the lungs appeared what I call suffused with blood, looking red and spotted in many places with black specks; and on the back part the blood had settled in a deep red colour, almost approaching to purple; the diaphragm was in the same state, and in general upon the depending surfaces of the body the blood was settled in the like manner; the kidneys appeared black as tinder, and the liver much in the same state. These I think are most of the appearances I need mention upon the present occasion.

Q. Have you heard the evidence of Mr. Powell the apothecary?

A. I have.

Q. And have heard too the evidence of Lady Boughton?

A. I have.

Q. Now from the evidence of Mr. Powell and the evidence of Lady Boughton, independent of appearances, for I would have you forget them for the present instant; what was in your judgement the occasion of Sir Theodosius Boughton's death?

A. Independent of the appearances of the body I am of opinion that the draught, in consequence of the symptoms which succeeded the swallowing of it, as described by Lady Boughton, was poison; and the immediate cause of his death.

Q. Please to smell upon that bottle; what in your judgement is the noxious medicine in that bottle?

A. I know the liquid well; it a distillation of laurel leaves, commonly called laurel water.

Q. You have heard Mr. Powell's account of the mixture he prepared for Sir Theodosius Boughton; was that mixture innocent and proper?

A. In my opinion it was perfectly innocent.

Q. You have said that in your judgement laurel water is contained in this bottle?

A. Yes.

Q. Have you made any particular experiments upon the effects of laurel water?

A. I have several.

Q. You will please to relate the particular experiments you have made, and the appearances in consequence of those experiments?

A. Mr. Wilmer and I made experiments together; our first experiment with laurel water was upon a middle sized dog; I held his mouth open and there was I believe nearly two ounces of laurel water poured down his throat. I held the dog between my knees; in half a minute as nearly as I can guess, he dropped dead to the ground without any motion, except a tremulous motion once or twice of the lower jaw. The next animal on which I tried the laurel water was likewise in company with Mr. Wilmer; To an aged mare; we gave at repeated intervals out of an horn, I believe about a pint and an half of laurel water. In about two minutes she was precipitated to the ground with her head under her, and then tumbled on her back kicking violently; she afterwards lay without kicking but seemed convulsed, her eyes rolling about, rearing up her head as if in agonies, gulping at her stomach as if something lay there exceeding offensive to her; and at that instant and during the whole time she lived afterwards, heaving in the flanks in a most extraordinary manner, and at the end of fifteen minutes she expired. After this in company with Mr. Ewbank of Coventry, I gave to a cat about a spoonful of laurel water which I had myself seen distilled; it was pale and limpid as pure distilled waters, and seemed very weak. The cat though I believe she had not half the quantity I intended she should have taken, died in three minutes.

Q. What quantity did you pour down the cat's throat?

A. About a spoonful, about half an ounce. At Southam, the beginning of this week, I gave in presence of Mr. Snow, to another aged horse, about a pint of laurel water, distilled by Mr. Snow. Upon his receiving into his stomach the first horn full, which was a small one, no bigger than we used in the former experiment, he dropped to the ground.

Court. What was the quantity that horn held?

A. I suppose three or four ounces. It was impossible to give the animal the whole of it, full half was spilt. I conceived it to be very strong, and desired Mr. Snow would

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give

give her no more at that time, in order to try the strength of it. The horse dropped; he endeavoured to raise himself up, but could rise no farther than by setting himself upon his buttocks like a dog. I perceived he had entirely lost the use of his hinder parts. We then gave him another horn full, which in its turn knocked him down very soon, and at intervals we gave him several horns full to the amount of above a pint in the whole, and at the end of twenty-eight minutes he expired, violently convulsed, groaning, his tongue lolling out of his mouth; and indeed the first horse's tongue had a very extraordinary appearance, for it darted backward and forward in the manner of a dart, but this horse lolled his tongue out like a dog when running. In both the horses the artery in the neck beat much, even after the animal had ceased to breathe, except we call the motion of the lower jaw, a kind of gasping, breathing. I saw all the bodies opened, and in all of them there was a violent distention of the venous system, of the whole veins in the body, the stomach, bowels, lungs, and so on. The veins were distended and full of blood, the lungs appeared red and suffused. I said before that I did not use the term *inflammation* in any other way than to convey the vulgar idea the appearance of red colour given to any part by blood. The lungs suffused with blood looking very red, and in the first horse it was of the colour of a deep pink; very different I conceive from the natural colour.

Q. You have smelled to the bottle which has the laurel water in it, do you know any thing in medicine that corresponds in smell with that mixture?

A. I do not know any medicine that smells like it.

Q. Does the smell described by Lady Boughton, something like bitter almonds, convey to you an idea of that mixture?

A. It does, and I have given the laurel water to many people to smell to, and they always described the smell to be something like bitter almonds. I do not exactly know how they expressed themselves, but they meant to say that.

Q. In your judgement is the quantity that one of these bottles contain of laurel water sufficient to take away life from any human creature?

A. In my opinion it is.

Q. I have now got your opinion upon the subject, independent of any appearances you observed upon the body of Sir Theodosius Boughton. Now are you from these appearances confirmed, or otherwise, in the opinion you have given?

A. Confirmed in it so far as upon the viewing a body so long after the death of the subject one can be allowed to form a judgement upon such appearances.

Dr. RATTRAY. Cross-examined by Mr. NEWNHAM.

Q. If I do not misunderstand you, Doctor, the last account you gave in answer to the question, Whether you are confirmed in this opinion by the appearances; you said Yes, so far as you might be allowed to form an opinion viewing the body so long after the death of the subject?

A. Yes; so far as we may be allowed to form a judgement upon appearances so long after death.

Q. By your putting it in that way, do you, or do you not mean to say that all judgement upon such a subject, in such a case, is unfounded?

A. I cannot say that, because from the analogy between the appearances in that body, and those distinguishable in animals killed by the poison I have just mentioned, I think them so much alike that I am rather confirmed in my opinion with respect to the operation of the draught.

Q. Those bodies were instantaneously opened?

A. Yes, so much so that there was the peristaltick motion of the bowels upon their being pricked.

Q. This was upon the eleventh day after Sir Theodosius's death?

A. Yes.

Q. What was the appearance of the body when you first went to Lawford Hall?

A. At the first time I saw the body, what I did see of it was, the face was in the condition I have described, with a maggot crawling over its surface, it was black as I have described, it was quite in the same state; in short, I saw no difference the last day, excepting that the maggot was not upon it then.

Q. Were you or not offended by a violent stench as you approached the dead body?

A. We were.

Q. Had not putrefaction considerably taken place?

A. I believe it had.

Q. Did

Q. Did Mr. Wilmer observe the same appearances with you?

A. Yes, I believe so; I have no reason to doubt it.

Q. What was your reason at that time for not opening the body?

A. I have just said the body seemed to us to be in such a very disagreeable state; that we did not like to enter into the investigation of it, not knowing that any particular purpose was to be answered by it, except the satisfaction of the family.

Q. At that time was not you and Mr. Wilmer sent for the purpose of opening the body?

A. Yes; it was so expressed in the note.

Q. Was not your reason at that time (whether you were erroneous in your judgment or not, is another thing) but was not your reason for declining opening the body that you conceived the opening it could answer no useful purpose?

A. At that time we were of that opinion?

Q. When you went back from Lawford-Hall to Coventry, was you or not desired, or did you and Mr. Wilmer undertake to apprise Sir William Wheeler of this fact?

A. I did not undertake it; I believe Captain Donellan said to me at going out of the door, *Shall you see Sir William Wheeler?* or words to that effect; I said, "I believed not; I did not think I should, for I had an engagement upon my hands the next day following, which I must necessarily attend." It was to go to Brookswell; and I stayed all night from home, so I could not go, and I did not understand from the letter, that it was incumbent upon me in point of politeness to wait upon Sir William Wheeler.

Q. Mr. Wilmer's name was mentioned?

A. "Surgeon and physician" were mentioned, but no name.

Q. Was Mr. Wilmer present at that time?

A. We were going out at the door on our return home.

Q. Was any thing said to Mr. Wilmer in your presence?

A. Not that I know, or at present recollect.

Q. When was it you did see Sir William Wheeler?

A. On the 4th of September we went, and returned without opening the body; the next day (the 5th) I was particularly engaged, as I before said; when I returned home in the morning of the 6th, I was told that Captain Donellan's servant had been in quest of me and Mr. Wilmer, afterwards I saw a letter from Captain Donellan, *desiring either me or Mr. Wilmer, or both of us, to go to Sir William Wheeler, and inform him of the circumstance that happened at Lawford-Hall, on the night of the 4th.*

Court. When was it you saw that letter?

A. On the 6th; and it was on the 6th I saw Sir William Wheeler at the Black Dog; at least there was but one intervening day, and I think it was the 6th.

Q. The next time you saw the body was on the 9th of September, which was the eleventh day after the death?

A. I think so.

Q. Does not putrefaction increase very much in the space of five or six Days, in a hot summer?

A. I should think it must certainly increase.

Q. Was or not the body, in a very high state of putrefaction when you saw it?

A. Upon the shroud being removed, the body appeared to me much fairer than I expected; I expected to have seen it in a very black putrid state, but the external appearance was not quite so highly so, as I expected.

Q. You mentioned that the body was much swelled?

A. It was swelled.

Q. Appearing upon a gangrene, I suppose?

A. It rather put on the appearance of gangrene.

Q. I understand you have set your name to a description of certain appearances that met your eye when you examined the body—I mean your examination?

A. I have undoubtedly.

Q. Did you, or did you not, concur with Mr. Wilmer as to the appearances of the body?

A. In general we did.

Q. You set your name to that examination?

A. I did not set my name to any thing but my own examination.

Q. Wherein the appearances are particularly described?

A. They are not particularly described; there is something said about the stomach and bowels.

Q. For

Q. For what purpose then did you attend there?

A. I did not know that it was necessary before a coroner's jury to enter into the particulars; I was quite a novice in the business.

Q. Do you mean a novice in the mode of dissection.

A. No, in the business before a coroner.

Q. Did the account you set your name to, contain a true description of the appearances that met your eye upon the occasion?

A. So far as they went it did.

Q. Did you ever hear or know of any poison whatever occasioning any immediate external appearances on the human body?

A. No, no immediate external appearances in the case of vegetable poisons, except what I have heard, but they have not fallen under my own knowledge.

Q. So far for the external appearance. Now I shall be glad to know whether all the appearances you speak of in the face, the protuberance of the tongue, and the lips being swelled and retracted, whether those are not all signs of putrefaction?

A. I really don't know that they are.

Q. I do not mean to give you any offense, but I beg leave to ask whether you have been much used to anatomical dissection?

A. I have been as far as persons not particularly intended for anatomical pursuits—I am not a professor of anatomy.

Q. Did you ever attend the dissection of a human body that was poisoned, or suspected to have been poisoned?

A. Never.

Q. From the external appearances of the different parts of the body you draw no kind of conclusion or inference, and form no opinion?

A. No, I don't form any strong opinion from them.

Q. How were the appearances when the cavity of the abdomen was opened?

A. I have described them in general.

Q. Not being an anatomical man it has slipped my memory, will you please to repeat it?

A. I believe I did not before mention the omentum or caul, that was suffused with blood of a brownish red, the stomach and bowels appeared in general red, which is vulgarly called an inflammation.

Q. Might not that be owing to a transfusion of the blood?

Dr. Rattray. From what cause?

Mr. Newnam. From putrefaction.

Dr. Rattray. Do you, by a transfusion of the blood, mean the passage of the blood from the arteries into the veins?

Mr. Newnam. Yes.

Dr. Rattray. I cannot think it could arise from putrefaction.

Q. That is your opinion?

A. It is.

Q. Did you look at the stomach?

A. Yes.

Q. As Sir Theodosius Bughton is represented to have died in a few minutes after taking this medicine, did you with correctness and attention examine the stomach?

A. The contents of the stomach were about a spoonful and an half, or a couple of ounces of a slimy reddish liquor, which I rubbed between my finger and thumb, and it contained no gritty substance that I could perceive.

Q. Is it not usual to find some such quantity of liquor in the stomach?

A. The stomach after death must contain something more or less according to different circumstances.

Q. You said the stomach and the orifice of it and the small arch of it bore the appearance of inflammation; pray is not inflammation and appearance of inflammation much the same thing.

A. All that I have to say upon the present business is I perhaps don't know the cause of inflammation; but there is an appearance of inflammation upon the stomach and bowels, owing to an injection of blood into the venous system, the veins being full of blood, put on a red appearance.

Q. If you will not take upon you to say what is the cause, what are the signs of inflammation?

A. An appearance of redness sometimes not always ~~attended~~ attended with pain, and sometimes throbbing.

Q. Did

Q. Did you pursue your search through the bowels?

A. No; I cannot say I did, nor did I think it in my power.

Q. How far did you pursue your search in the stomach?

A. We examined the contents of the stomach; we took the stomach out, but in taking it out a great part of the contents issued out of the bowels next to it; and the smell was so offensive I did not choose to enter into that matter.

Q. Whether a pursuit or enquiry, from an inspection through the bowels, was not as likely to have led to a discovery of the cause of the death as any other part of the body which you did examine?

A. I do not believe a pursuit through the whole extent of the bowels could have led to any discovery in these circumstances.

Q. Are not the bowels the seat of poison?

A. When it passes in there, no doubt it affects the bowels.

Q. Then why did not you examine into the contents of the bowels?

A. I did not think it in the power of any one to examine into the contents of the bowels; their contents being so strong and disagreeable.

Q. Whether you do not form your judgement upon the appearances?

A. Not altogether; they corroborate my opinion upon the effect of the draught.

Q. Did you or did you not know the contents of the draught Mr. Powell had prepared when you was examined before the coroner?

A. Yes; I did.

Q. And you knew from the account given you how long Sir Theodosius Boughton lived after he took that draught?

A. I took my information from Lady Boughton.

Q. Then whether many reasons have not occurred, subsequent to that time, considerably, to induce you to form your judgement that he died of arsenick?

A. Not subsequent to that time; at that time I did think he died of arsenick; but I am now clear that I was then mistaken.

Q. Why may you not be mistaken now?

A. I cannot conceive that in these circumstances any one can be mistaken as to the medicine; from the sensible qualities described by Lady Boughton, I believe it to be of that nature.

Q. Did not you know at that time the symptoms described by Lady Boughton?

A. I did.

Q. Then was not your judgement at that time as ripe for information as it is now?

A. It is now since I have received the information.

Q. Whether you did not, after you heard Lady Boughton describe the symptoms, and after you saw the body opened, give it as your opinion that he died of arsenick?

A. I have had such an opinion.

Q. And have declared so?

A. I did.

Q. Was there or was there not a large quantity of extravasated blood in the thorax?

A. On each side the lungs there was.

Q. About what quantity?

A. I think not quite a pint on each side the right and left lobe of the lungs.

Q. Would not the rupture of a blood vessel occasion death?

A. The rupture of a blood vessel undoubtedly would have occasioned death; but it would not in my apprehension have been attended with the same appearances.

Q. Might not a blood vessel in an effort to reach be broken?

A. I should conceive that if, in an effort to reach; a blood vessel of that magnitude had ruptured that he must have died immediately without convulsions.

Q. But supposing a person recovering from convulsions, for he is stated to be inclined to sleep?

A. It is a case I am not supposing probable.

Q. Is it possible?

A. Every thing is possible under God.

Q. Did you never hear of any person dying of an epilepsy or of an apoplexy with symptoms like those, being in convulsions?

A. I do not think the symptoms described as having taken place in Sir Theodosius Boughton are like to an epilepsy?

Q. Nor an apoplexy?

A. They were entirely in my opinion the effects of the draught.

Q. Might not an epilepsy or an apoplexy be accompanied with those symptoms?

A. I

A. I never saw either of them attended with an heaving at the stomach.

Q. When respiration grows feeble; is it not a common case that the muscles of the throat are very much relaxed?

A. All the effects that succeeded the draught I believe were the consequences of it; and if the muscles were relaxed or foam proceeded from the mouth, they were in consequence of it.

Q. Is it not commonly the case with persons who die of almost every disorder?

A. Very often.

Q. Are not the muscles of the throat instrumental in respiration?

A. So far as to the passage of the air in and out.

Q. Is it not a very common appearance a few minutes before death, when respiration grows feeble for froth to issue from the mouth?

A. No, not commonly. I have seen it in epilepsies.

Q. What was your reason for supposing at one time that the deceased died of arsenick?

A. Every man is mistaken now and then in his opinion, and that was my case; I am not ashamed to own a mistake.

Q. Have you been very nice in your experiments; for instance, in the conveying the laurel water into the animals?

A. If there was any want of nicety the subject had less of it than I intended.

Q. When an animal, suppose a dog or cat, is striving to refuse a draught you are forcing into its mouth, whether it is not common for some part of the liquor to get into the lungs?

A. If it did it would make them cough, but be attended with no bad consequences unless it was poison.

Q. Did you ever convey any poison immediately into the stomach?

Dr. Rattray. Do you mean by perforation through the ribs?

Mr. Newnham. Yes.

Dr. Rattray. I never have.

Q. Did you ever convey any into the veins of an animal?

A. I never have.

Q. Did you observe or smell that liquor which came out of the stomach?

A. I could not avoid smelling it.

Q. Had it the same offensive smell?

A. It in general had; one could not expect any smell but partaking of that general putrefaction of the body; but I had a particular taste in my mouth at that time, a kind of biting acrimony upon my tongue. And I have in all the experiments I have made with laurel-water, always had the same taste, from breathing over the water, a biting upon my tongue, and sometimes a bitter taste upon the upper part of the fawces.

Q. Did you impute it to that cause then?

A. No, I imputed it to the volatile salts escaping the body.

Q. Were not the volatile salts likely to occasion that?

A. No. I complained to Mr. Wilmer, "I have a very odd taste in my mouth, my gums bleed."

Q. You attributed it to the volatility of the salts?

A. At that time I could not account for it, but in my experiments afterwards with the laurel water, the effluvia of it has constantly and uniformly produced the same kind of taste; there is a very volatile oil in it I am confident.

Q. Do not you understand that there cannot be any information at all obtained in consequence of dissecting animals which have been destroyed by laurel water?

A. I do not think that the operation of these sort of substances upon the inside of the stomach produce any violent appearances of redness, but in most of the animals I have seen there has been small red spots inside, of the size of a shilling perhaps, but the effects in the trials I have made has been a driving the blood from the part of the body where it should be. I believe the effect of the poison is to empty the arteries in general, and push the blood into the veins; that is my opinion at present, so far as I have gone into the matter.

Q. But you was mistaken at first relative to forming an opinion that the death was occasioned by arsenick?

A. Yes.

Mr. Balguy. You say that when the shroud came to be taken off the body you found the body less offensive than you had expected?

A. Less black.

Q. When

Q. When you first saw the body, on the 4th of September, did you or not take the shroud off?

A. We did not.

Q. You saw nothing but the face?

A. Nothing but the face.

Q. If at that time Captain Donellan had insinuated to you any suspicion of poison, whether you would or not have taken the shroud from the body?

A. I verily believe, had I known the tendency of the enquiry, I should have sat there for a month rather than have left the body unopened.

Q. Should you at that time if the suspicion had been disclosed have proceeded to open the body?

A. I should have attended the opening of it.

Mr. Neenham. I understand you to say that when the body was opened, the external appearances did not contribute in any way to your forming a judgment one way or other?

A. Nobody would attempt to form a judgment upon the external appearances altogether.

Mr. BRADFORD WILMER sworn. Examined by Mr. WHEELER.

Q. You was sent for to Lawford-hall at the same time Dr. Rattray was?

A. I was; I went there with Dr. Rattray.

Q. When first you came there did you see Captain Donellan?

A. I did. He desired us to walk into the parlour, after we had had some refreshment we were told that the coffin was unfolded, and we were desired to walk up stairs.

Q. Was any thing said to you at that time as to the means by which Sir Theodosius Boughton had died?

A. Not the least in the world.

Q. Nothing said of poison?

A. I never heard a word of poison.

Q. When you did go up stairs, what part did you see of the corpse?

A. Only the face.

Q. We have learned from Dr. Rattray that you did not proceed any farther, how happened that?

A. The body was so extremely putrid, that I declared my opinion to Dr. Rattray that the proposed enquiry could give no sort of information.

Q. Supposing it had been communicated to you that Sir Theodosius Boughton had died by poison should you have been satisfied without opening it?

A. I should then have opened the body at all events.

Q. You did not then open the body?

A. I certainly did not.

Q. You afterwards did open it at the time Dr. Rattray has spoken of?

A. I was present at the opening of the body, by Mr. Bucknill.

Q. Have you been employed in any experiments with Dr. Rattray?

A. I have.

Q. Without going into every particular of Dr. Rattray's account, do you and he concur in general as to the effect of that medicine?

A. I wish you would be more particular in that question.

Q. Do you agree with Dr. Rattray in what he has said respecting those experiments at which you was present?

A. I do in general; but as Dr. Rattray has not described the appearances which were visible upon the dissection of the horse, with your lordship's permission I will read my minutes. "On the 20th of March, one ounce of the laurel water was given to a young greyhound; while Dr. Rattray held the mouth open, I poured the water into the dog's throat; as soon as it was swallowed the Doctor released its head to observe the effects of the poison, when, to our great surprise, he fell down upon his side, and without the least struggle or any perceptible motion (except what the doctor has explained about the drooping of the lower jaw) expired. On the 22d of March, in the presence of Sir William Wheeler, a pint and a quarter of laurel water was given to a mare aged twenty-eight years. Within a minute from the time it was swallowed she seemed affected; her flanks were observed to heave much, and a trembling seized her limbs; in two minutes she suddenly fell down upon her head, and in a short time after was very violently convulsed; the convulsions continued about five minutes, at the expiration of which

which time, she laid still, but her breathing was very quick and laborious, and her eyes much affected with spasms. At this time four ounces more of the water were given her, after which she seemed much weaker, but without any more return of convulsions, and in about fifteen minutes from the time of her first seizure, she expired."

Q. After her first convulsion she was quieter?

A. She was. "Upon opening the abdomen, a strong smell of laurel water was perceptible; the colon, one of the large intestines, was not altered from its usual appearance, but the small intestines appeared of a purple colour, and the veins were much distended with blood; the stomach contained some hay mixed with laurel water; its internal surface was not inflamed, except in a small degree near the lower orifice of the stomach; the lungs appeared remarkably full of blood; the small vessels upon their surface being as visible as if they had been injected with red wax."

Q. Whether you in general concur in sentiments with Dr. Rattray, as to the effect of laurel water?

Mr. Wilmer. Do you mean upon the human body, or upon brutes?

Mr. Wheeler. Upon both.

A. It has in four instances been fatal in the human body; I do not know it of my own knowledge, but from my reading.

Q. Have you any doubt of its being fatal?

A. Not the least in the world.

Q. Now do you apprehend the quantity contained in that bottle is sufficient to take away life?

A. I imagine one bottle of that size full of laurel water, would be sufficient to kill in half an hour's time any man in this court.

Mr. BRADFORD WILMER. *Cross-examined by Mr. GREEN.*

Q. Were there any symptoms in this case peculiarly different from the symptoms attending a case of epilepsy or apoplexy?

A. The appearance of the body in the putrid state in which it was when I had an opportunity of observing it, could give me no information to form an opinion upon respecting the cause of the death.

Q. Have you had any opportunities in your own experience of observing epilepsies?

A. I have. They are of two kinds, either primary or symptomatick. It happens sometimes that without the least previous notice, a man in the most perfect state of health, in the midst of pleasure or engaged in business, as Suetonius says of Julius Cæsar, may in a moment, be seized with the epilepsy, his senses will leave him; he will fall down, be convulsed, foam at the mouth, his tongue will be black, and he either may die or recover. As to the symptomatick epilepsy, I can speak from experience: a patient of mine had a violent pain and tumour in his finger; as soon as the pain, which gradually went up his arm, reached his armpit, he fell down epileptick, and convulsed. But if previous to an epilepsy, the patient heave very much at the stomach, and shew signs of sickness, I should conclude the cause of that epilepsy was in the stomach.

Q. Epilepsies proceed from various causes?

A. Numerous causes.

Q. Will not the loss of blood occasion an epilepsy?

A. I believe not.

Q. What quantity of blood was there in the stomach?

A. I did not measure it; I conclude about two pints; it lodged in the cavity of the thorax.

Q. Might not that occasion convulsions?

A. I do not know; but if I might be allowed to reason from analogy, I should conclude it would, for in all slaughtered animals, when the blood runs out from them in a full stream, they lie quiet, but they never die without convulsions. The loss of blood will evidently occasion convulsions.

Q. You was there upon the 4th and the 9th of September, did you find any reluctance or unwillingness, on the part of the prisoner, to the body's being opened?

A. Not the least in the world.

Q. Did he not seem rather desirous of having it opened?

A. I believe it was at his own request that a man was sent for to unfold the coffin.

Q. Was

Q. Was the person sent for to unfold the coffin before you came?

A. He was sent for after we were at the house.

Q. Did the prisoner send for him.

A. I think he sent for him.

Q. Was that the first or second time of your being there?

A. At the first time when I declined opening the body, not having had the least information from any part of the family that poison was suspected to have been administered to the deceased.

Q. That was on the 4th?

A. It was.

Q. Was any thing said about your going to Sir William Wheeler the next day?

A. I heard a conversation between the prisoner and Dr. Rattray, I cannot at this distance of time speak accurately to matters which appeared then to me trifling. I believe he asked Dr. Rattray, *Whether he should see Sir William Wheeler?* I think Dr. Rattray said, "He believed he should, and would give him an account of the business."

Q. Was you desired to go over to Sir William Wheeler next day?

A. I was not desired to go over,

Q. Did you say that you should go over?

A. Not that I recollect, though I may be mistaken.

Mr. Wheeler. From the appearances of the body, and after the evidence you have heard given both by Lady Boughton and the other witnesses, what do you attribute this gentleman's death to?

A. After having heard Lady Boughton's evidence, and therefore being acquainted with the symptoms which preceded the death of Sir Theodosius Boughton, I am clearly of opinion that his death was occasioned by a poisonous draught administered to him by Lady Boughton on the morning of his death.

Court. Is the heaving in the stomach or the belly a circumstance which attends an epilepsy?

A. It is not.

Dr. ASHE Sworn. Examined by Mr. GEAST.

Q. You are a physician and live at Dinningham?

A. Yes.

Q. You have heard the evidence that has been given?

A. I have.

Q. What in your judgement was the cause of the death of Sir Theodosius Boughton?

A. I think he died in consequence of taking that draught, after the taking of which he was seized in so extraordinary a manner.

Q. Mention the particular reasons you have for thinking so?

A. It does not appear, from any part of the evidence that has been this day given, that the late Sir Theodosius had any disease upon him of a nature either likely or in a degree sufficient to produce those violent consequences which happened to him, neither do I know in nature any medicine, properly so called, which administered in any dose, and in any form, could possibly produce the same effects. I know nothing but a poison speedy in its operation that could be attended with such terrible consequences: As to the appearances of the body upon dissection they were certainly, as far as could be collected at that distant period from the time of the death, and in such hot weather, similar to those appearances which are found in the bodies of animals that are killed by poisons collected from vegetable substances, not from mineral ones.

Q. Will you please to look at that phial?

A. The vehicle of it is laurel water.

Q. Would that quantity be sufficient to cause death?

A. I do not know how this is distilled, or how firm it may be, but I know it may be made in this quantity to destroy animal life in a few seconds. I do not know who distilled this, but I have made it frequently myself, and in such a degree of strength as to destroy animal life in a few seconds; if it is distilled enough to collect the essential oil, a tea-spoon of it would destroy animal life in a few seconds.

Court. If it was made on purpose?

A. Certainly, I dare say as strong a poison might be made from bitter almonds as that.

Q. Do you or not, from the evidence you have heard, believe Sir Theodosius Boughton died of poison?

A. I do.

Court. You are not to give your opinion from the evidence in general, but upon the symptoms those witnesses have described?

A. By the symptoms those evidence have described; I am of opinion that Sir Theodosius Boughton died of poison.

DR. PARSONS *sworn.* Examined by Mr. HOWORTH.

Q. You are I believe professor of anatomy in the university of Oxford?

A. I am.

Q. You have heard the symptoms attending the death of Sir Theodosius Boughton described by the witnesses produced to day?

A. I have.

Q. What in your judgement occasioned the death of Sir Theodosius Boughton?

A. From the description of the state of the young Baronet's health, previous to his taking the second dose, which was supposed to be similar to that which he had taken two or three days before, and from the violent nervous symptoms that immediately followed the taking thereof, it is my opinion that he died in consequence of taking the second dose; which instead of being a composition of jalap and rhubarb only, proved to contain a poison, and of what nature that poison was, appears sufficiently from the description that Lady Boughton gives of its smell when she poured it out in order to give it to her son, her ladyship said it smelt like the taste of bitter almonds, which particularly characterises the smell of laurel water. Perhaps it may not be improper to produce some laurel water for the jury to smell at, that they may judge how well it agrees with the description that Lady Boughton has given of the supposed physick. The violent nervous symptoms that came on subsequent to his taking the second dose took place so soon, and were so different from what attended the taking of the first, that undoubtedly they were caused by something it had in it very different from the contents of the first, much more active, and as it proved more deleterious. Jalap sometimes disagrees with the stomach and may produce sickness, but with respect to Sir Theodosius Boughton this medicine did not create any sickness when given the first time.

Court. Could all the ingredients in the medicine mentioned by Mr. Powell produce in Sir Theodosius Boughton the effects described?

A. No; I apprehend they could not; and as a proof of it, they did not produce any such effects in the first instance, or dose.

Q. Are the symptoms which have been described by Lady Boughton such as would attend an epilepsy, or is there any and what difference?

A. The epilepsy is distinguished by a total abolition of sense, but an increase of motion in several of the muscles, so that the patient will appear much convulsed, and seems to see and hear every thing that is said and done, and to observe whatever is passing; yet when the fit goes off he has no knowledge or recollection of what has happened. Apoplexy is a sudden privation of all the powers of sense, and voluntary motion: the person affected seeming to be in a profound sleep, accompanied with considerable noise in breathing. As so little therefore is said of convulsions as a part of Sir Theodosius's symptoms, the state in which he lay seems to have been more of the apoplectic kind than epileptic.

Q. It has been described by Lady Boughton that soon after taking this draught the stomach heaved very much, and a noise could be perceived as issuing from it; now is that in your judgement to be attributed to either epilepsy or apoplexy, or the effect of the medicine?

A. The effects of the medicine I think undoubtedly, and not spontaneous epilepsy or apoplexy; it is very immaterial whether you call the symptoms epileptic or apoplectic; for which ever they resembled most I consider them but as symptomatick.

Q. Was the heaving of the stomach the effect of apoplexy or epilepsy, or of this draught?

A. No doubt, I think the draught was the cause, especially as laurel water, which the draught seems to have contained from its peculiar smell, will produce similar effects.

Q. Then your judgement is, that the fatal effects were produced by the medicine thus taken?

A. I think there can be no doubt of that as they commenced almost as soon as he swallowed the draught; and a mixture such as he is supposed to have taken, is known to have the power of producing them.

Q. And from your knowledge of the effects produced by laurel water, your opinion is that laurel water was the poison thus administered to Sir Theodosius Boughton?

A. It

A. It is. Dr. Rutty relates a case "of a girl of eighteen years of age and in perfect health, who took a quantity, less than two spoons full of the first runnings of simple water of laurel leaves; whereupon within half a minute she fell down, was convulsed, foamed at the mouth, and died in a short time."

Q. Could those effects be produced (speak from your own judgement) by laurel water?

A. I have no doubt of it. Dogs and other quadrupedes (as we are informed) that take it, fall immediately into totterings and convulsions of the limbs, which are presently followed by a total paralysis; these convulsions, with some additional circumstances, as foaming at the mouth and loss of sense, constitutes the epilepsy which is described among the effects of vegetable poisons.

DR. PARSONS *cross-examined* by Mr. NEWNHAM.

Q. From the appearances of health in Sir Theodosius Boughton, and from the medicine not having occasioned any bad symptoms before, you conclude his death was occasioned by some other medicine substituted instead of that or in addition to it?

A. Most certainly; especially as the smell of it bespoke its having received the addition of a very poisonous ingredient.

Q. Have you never known instances of persons being taken suddenly when engaged in pleasure or business, or at dinner, and dying convulsed epileptick, or apoplectick?

A. I have; but those who die suddenly of apoplexy are generally persons of a full habit; and who are neither so thin nor so young as Sir Theodosius Boughton.

Q. Have you never known instances of persons of a thin habit being attacked by an apoplexy or an epilepsy?

A. By epilepsy they may.

Q. Have you never heard of a person having the appearance of perfect health being seized with an epilepsy without any primary cause giving any warning, have you never heard of people in perfect health being seized with an epilepsy or apoplexy?

A. Yes; apoplexy proceeding from repletion or the sudden bursting of a blood vessel; epilepsy may proceed from a variety of causes partial or general, in the head or elsewhere; but very seldom I believe proves so suddenly fatal.

Q. Might not those have happened to Sir Theodosius Boughton?

A. There can be no doubt of the possibility of their attacking him, but I think there is no reason to go so far for a cause as to *possibility*, when this medicine as all the world knows will effect it.

Q. That is assuming as a fact that he took two ounces of laurel water?

A. A Much less quantity would be sufficient for the purpose if we may credit Dr. Rutty's account.

Q. You collect that from the similarity of the smell?

A. We have nothing else to judge from but the similarity of the smell.

Q. Is not that the case with a variety of things; will not black cherry water have that smell?

A. Black cherry water is said to have the same smell, but it is now out of use; I don't suppose there is an apothecary in the island who has it, and therefore it could not be substituted by accident for the other vehicle.

Q. Will not bitter almonds have that smell?

A. Yes; and spirits flavoured with them are said to be poisonous to the human species.

Q. You ground your opinion upon the description of its smell by Lady Boughton?

A. Yes; we can ground our opinion upon nothing else but that and the subsequent effects.

Mr. SAMUEL BUCKNILL *sworn*. Examined by Mr. BALGUY.

Q. I believe you are a surgeon?

A. I profess surgery.

Q. Where do you live?

A. At Rugby.

Q. Do you remember going at any time to Lawford-Hall, and seeing Captain Donnellan?

A. Yes.

Q. When was it?

A. On

A. On the Tuesday, the morning after Dr. Rattray and Mr. Wilmer had been there to look at the body.

Q. Was you sent for, or did you go of your own accord?

A. I was not sent for, I went of my own accord.

Q. Did you see Captain Donellan at that time?

A. I did.

Q. What conversation passed between you and Captain Donellan?

A. I cannot recollect every word that passed, but I told Mr. Donellan, "I had heard that Dr. Rattray and Mr. Wilmer had been there; that I was informed he and the rest of the family wanted the body of Sir Theodosius Boughton to be opened; that I heard they declined opening it on account of the putrid state it was in, but if it would be any satisfaction to the family I would at all events take out the stomach."

Q. Was you permitted to take out the stomach, or to act at all in the affair?

A. No, I was not.

Q. Why was you not permitted?

A. Mr. Donellan's reason which he gave, was, *that Dr. Rattray and Mr. Wilmer had been there, and had declined opening the body, and it would not be fair in him or us to do any thing after men so eminent in their profession (as he expressed himself) had declined it—had said it was impossible.*

Q. Did any thing else pass between Captain Donellan and you?

A. I went away in consequence of that answer.

Q. Did you go there a second time?

A. I went there the second time on the next day (Wednesday).

Q. Was that the day that Sir Theodosius Boughton was buried?

A. It was.

Q. Did you go at that time by any appointment, or to meet any person?

A. I received a verbal message from Sir William Wheeler to go to Lawford-Hall, to meet Mr. Snow, and Mr. Snow and I together were to open the body.

Q. Did you in consequence of that message go to Lawford-Hall that day?

A. I did.

Q. At what time of day did you get there?

A. I believe it was about two o'clock.

Q. Did you see Captain Donellan at that time?

A. I did.

Q. What passed then?

A. I saw Captain Donellan in the hall; I asked "if Mr. Snow was come?" He said, *he was not come.* I said, "Pray, Sir, have you received any message or letter from Sir William Wheeler?" He said, *he had.* I told him, "I had received a verbal message from Sir William Wheeler to meet Mr. Snow there, and we were to get Sir Theodosius Boughton's body into the garden, or any convenient place we thought proper, and to open it." Captain Donellan said, *that he had then written to Sir William Wheeler, and likewise to Coventry, to the gentlemen of the faculty there, and he then waited Sir William Wheeler's further orders.*

Q. Was you at that time permitted to open the body?

A. I wanted to attend a patient who was very ill, about two miles from Lawford-Hall; I took my horse, and within ten yards of the gates I met a stranger riding a great pace, who desired I would come to see that patient I was then going to see, for he thought she was dying. I left word before I went, that I should be back again, I believe I mentioned the time, that it might be in an hour and an half I imagined.

Q. Who did you leave word with?

A. I spoke it openly in the hall; there were a great many people there; the bearers were ready.

Q. Do you know whether Captain Donellan was there?

A. He was; I don't know whether he heard me speak those words, but I rather believe he did.

Q. Did you return at the time you promised?

A. I had not rode above a mile from Lawford-Hall when I heard a person calling after me who was upon a full gallop, he told me "Mr. Snow was come." I dare say I could not have been gone three minutes before Mr. Snow came. I told the person "I would be back in an hour, but could not return back then, as I had received a message from a patient who in all probability was dying."

Q. Did you come back in an hour?

A. I came

A. I came back, I believe, within the hour.

Q. What passed then; was Mr. Snow there?

A. I asked Captain Donellan if Mr. Snow was gone; he said *he was, and he had given them orders what to do, and they were proceeding according to those orders*; but, says he, *I am sorry you should have given yourself all this unnecessary trouble*. I took my horse and rode away as fast as I could.

WILLIAM FROST sworn. Examined by Mr. DIGBY.

Q. Did you live in the service of Lady Boughton at the time of Sir Theodosius Boughton's death?

A. Yes, as coachman.

Q. On the day of Sir Theodosius Boughton's death did any thing pass between you and Captain Donellan, and what?

A. I will tell you as near as possibly I can. The morning that Sir *The.* died, the Captain and my Lady were to go to the Wells to drink the water; they ordered me to get the horses ready; I got them ready near about seven in the morning; I took them to the gate. Captain Donellan came out to the gate and felt the horse girths; he said *Are they fast, William?* I said, they are. He said, *I will go and see if my Lady is ready*. He came back and said, *My Lady is not ready yet, I will take my mare and go to the Wells*: I took the horses in. When I had been in the stable a considerable time, Lady Boughton came and called "William!" I said "My Lady." She said, "you must go to "Mr. Powell and fetch him as fast as possible; my son is dangerously ill." I said, "there was none but her horse in the stable." She said, "that would not go fast enough, I must get the mare." I told her "Captain Donellan had the mare." She bid me "go and meet him and take the mare." I shut the door, and went towards the gate; the Captain came inside the gate; I told him, "I was to go to Mr. Powell;" Captain Donellan made some answer, but what it was, I did not take particular notice. I took the mare and went.

Q. When you came back from Mr. Powell, was you called by Captain Donellan into the parlour?

A. I was called into the parlour by Captain Donellan, but whether it was the same morning, or a morning or two after, I cannot recollect. I was called into the parlour; when I came to the parlour door, he said *William, which gate did I come out at that morning?* I looked at him and said, "at the iron gates." He said, *Look, Lady Boughton, what William says*. Afterwards, he said, *I should be a clear evidence for him about his coming out at that gate*.

SAMUEL FROST sworn. Examined by Mr. HOWORTH.

Q. Were you the servant sent by Sir Theodosius Boughton to Mr. Powell's, at Rugby, on the Tuesday, for a medicine?

A. I was.

Q. From whom did you receive the medicine?

A. From Mr. Powell's own hands.

Q. Into whose hands did you deliver the medicine?

A. Into the hands of Sir Theodosius Boughton.

Q. At what time of the day did you bring it?

A. Between five and six o'clock in the afternoon.

Q. What did he do with the medicine when he received it?

A. He went with it up stairs.

Q. Were you with him that afternoon a fishing?

A. About seven o'clock I was.

Q. Did you stay with him till he returned?

A. I did.

Q. Was Captain Donellan along with Sir Theodosius Boughton any part of the time?

A. No, he was not.

Q. Was Sir Theodosius Boughton on foot or on horseback?

A. He kept on horse-back all the time.

Q. Was it possible for him to wet his feet?

A. No; he had his boots on, and continued on horse-back all the time.

L

Q. Had

Q. Had you occasion to go into his room next morning before he took his physick?

A. Yes.

Q. At what time did you go?

A. About six o'clock.

Q. Did you awake him?

A. I did, in order to get some straps to buckle on a net I was going to carry somewhere.

Q. Who gave you those straps?

A. Sir Theodosius Boughton; he got out of his bed and went into the next room to take them out.

Q. How did he appear at that time in his health?

A. He appeared to be in a very good state of health.

SAMUEL FROST *cross-examined* by MR. DAYRELL.

Q. It was between five and six o'clock when you brought the medicine from Mr. Powell's?

A. About that time.

Q. Was it nearer six or five?

A. I can't say.

Q. How long was it after that, that Sir Theodosius Boughton went a fishing?

A. He was a fishing when I went to him, about seven o'clock.

Q. But when did he go a fishing?

A. I did not see him when he went out, I was not in the way.

Q. Where was he when you delivered him the medicine?

A. On the other side the brook when I went to him.

Q. Was he a fishing when you delivered him the medicine?

A. No; I delivered the medicine to him upon the stairs; his sister stood by him when I delivered it to him.

Q. What did he do with it?

A. I cannot tell what he did with it; he took it up stairs in his hand, and shewed it to his sister.

Q. How soon afterwards was it that you saw him at the brook?

A. It might be a couple of hours after I gave him the medicine.

Q. Do you know what time he came home?

A. Near nine o'clock I believe, it was quite dark when he came home.

Q. Did your master complain that the physick Mr. Powell had lent him before made him sick?

A. I never heard him make any complaint of it.

Q. Did not you tell Mr. Powell so?

A. Not that physick; he never said any thing to me about it.

Q. Did he about any physick?

A. No, not to me.

Q. What did you mean by saying not *that* physick?

A. He took one dose of physick which made him very ill, and he brought it up again, but he did not mention any thing to me about it.

Q. Was any other person present besides his sister when you delivered the medicine to him?

A. There was not.

Q. What time of day did you generally dine at Lady Boughton's?

A. About two or three o'clock, or sometimes later.

Q. How soon after dinner had you seen Mr. Donellan?

A. About seven o'clock, I believe, in the garden.

Q. You had not seen him from dinner time till then?

A. No.

Q. Who was with him in the garden?

A. My Lady and Madam Donellan.

Q. Did you see nothing of him from dinner-time till seven o'clock?

A. No.

Q. Do you know when Mr. Donellan came home that night?

A. No.

Court. How long was it after you delivered the medicine to Sir Theodosius Boughton, before he got on horseback and went a fishing?

A. I cannot tell, I was not in the house when he went.

MARY

MARY LYNES *sworn. Examined by Mr. WHEELER.*

Q. Did you live servant to Mrs. Donellan at Lawford-Hall a little before Sir Theodosius Boughton's death?

A. Yes.

Q. How long before Sir Theodosius Boughton died?

A. I was not there at his death, I had left the place then.

Q. When did you leave it?

A. I cannot tell justly when I did leave it.

Q. Was it a month or six weeks before Sir Theodosius Boughton's death?

A. About a month before I believe.

Q. How long had you lived there before you left that place?

A. I cannot justly tell.

Q. Did you live there a twelvemonth or half a year?

A. No.

Q. Might you have been there three or four months?

A. I might.

Q. During the time you was there Mr. Donellan was at that house?

A. All the time I was there he was.

Q. Do you know any thing about a still?

A. Yes.

Q. Mention what you know about it?

A. I will tell the truth and nothing else: Mr. Donellan distilled roses, I do not know that he distilled any thing else.

Q. Where was the still kept?

A. In what he called his own room.

Q. Was that the room he slept in?

A. No, he did not sleep there.

Q. Was the door of that room locked?

A. He slept there when Madam Donellan was brought to bed, but at no time else while I was there.

Q. Was that room locked in which the still was?

A. It was kept locked before Mrs. Donellan was brought to bed, but when she was brought to bed it was open.

Q. Do you know any thing of his using this still frequently?

A. Yes, distilling roses; I do not know that he distilled any thing else.

Q. Was that done frequently?

A. Yes. I cannot tell how long he distilled, but he distilled a good while.

FRANCIS AMOS *sworn. Examined by Mr. HOWORTH.*

Q. Did you live at Lawford-hall at the time of the death of Sir Theodosius Boughton?

A. Yes.

Q. In what capacity?

A. Gardener.

Q. Do you remember being out a fishing with Sir Theodosius Boughton the night before he died?

A. Yes.

Q. Was you with him the whole of the time he was fishing?

A. I was.

Q. Was Mr. Donellan fishing with him?

A. He was not.

Q. Do you remember seeing Mr. Donellan on the evening Sir Theodosius Boughton died?

A. Yes, I saw him in the garden.

Q. I am asking you if you saw Mr. Donellan on the evening after the death of Sir Theodosius Boughton, and whether you had any conversation with him?

A. At night I had.

Q. What did he say to you?

A. He came into the garden to me, he said, *Now, gardener, you shall live at your ease, and work at your ease; it shall not be as it was in Sir The.'s days; I wanted before to be master, but I have got master now, and shall be master.*

Q. Do you know any thing of Mr. Donellan using a still for any purpose?

A. He brought a still to me to clean two or three days after Sir The. died; it was full of lime, and the lime was wet.

Q. What

Q. Was any thing said by him about it?

A. He said he used the lime to kill fleas.

Q. You as gardener I suppose know whether he used to gather things in the garden for the purpose of distilling?

A. He might for what I know.

Q. Have you ever got any thing?

A. I have got lavender for him to distil and have taken it into the house.

Q. Have you in your garden any laurel trees?

A. Yes, and bays too, and laurelstinas.

Mr. Newnham. And cellery?

A. Yes.

Q. On the morning on which Sir Theodosius Boughton died Mr. Donellan was with you, for the purpose of getting some pigeons?

A. Yes.

Q. Did any conversation pass between him and you respecting Sir Theodosius Boughton?

A. Yes, he said, *Gardener, you must go and take a couple of pigeons, directly.* I said, "there were none fit to eat." He said, *It will make no odds if they are not, for they are for Sir The. we must have them ready against the doctor comes. Poor fellow! (says he) he lies in a sad agony now with this damned nasty distemper the pox, it will be the death of him.*

Q. That was on the morning on which he died?

A. Yes. As soon as I went into the house with the pigeons I met my lady and Madam Donellan at the door, they were wringing their hands; they said, "It is too late now, he is dead." They sent me for two women to lay him out.

FRANCIS AMOS. *Cross examined by Mr. NEWNHAM.*

Q. He was laid out?

A. Yes.

Q. Mr. Fonnereau came there that day?

A. No, he came there the day after.

Q. Did Mr. Fonnereau see him?

A. Yes.

Q. About what hour was it when the prisoner spoke to you about the pigeons?

A. It might be about eight o'clock.

Q. How soon was it afterwards that the ladies came out wringing their hands?

A. In a very few minutes.

WILLIAM CROFTS *sworn. Examined by Mr. GEAST.*

Q. Did you attend at the taking the coroner's inquisition at Newbold, upon the body of Sir Theodosius Boughton?

A. I did.

Q. You was I believe one of the jury?

A. I was.

Q. Lady Boughton was examined upon that occasion?

A. Yes, she was.

Q. Did you, during Lady Boughton's examination observe any particular behaviour in Captain Donellan, if you did give an account of it?

A. When Lady Boughton said, *Captain Donellan rinsed the bottles, I saw Captain Donellan catch her by the gown and give her a twitch.*

JOHN DARBYSHIRE *sworn. Examined by Mr. DIGBY.*

Q. You was a prisoner in Warwick gaol for debt?

A. Yes.

Q. Have you had any conversation with Mr. Donellan?

A. Yes; I have.

Q. How came you to enter into any particular conversation with him?

A. We were both in one room together; he had a bed in the same room I had for a month or five weeks I believe. In our conversation in the prison I used to tell Captain Donellan what I had heard. I remember one time we had a conversation about Sir Theodosius Boughton's being poisoned; I asked Captain Donellan whether the body was poisoned or not? He said "*there was no doubt of it.*" I said, for God sake! Captain, who could do it? He said "*it was done amongst themselves, he had no hand in it, he had no thing to do with it.*" I asked him "who he meant by themselves;" he said "*himself, Lady Boughton, the footman, and the apothecary.*"

Q. Have

Q. Who did he mean by *himself*?

A. Sir Theodosius Boughton. I said "sure he could not do it himself?" He said "no he did not think *he* did; *he* could not believe *he* would. I told him "I thought the apothecary could hardly do it for he had no interest, he would lose a good patient; "that his footman could have no interest in it, and it was very unnatural to suppose "that Lady Boughton would do it." He then spoke of Lady Boughton, how covetous she was; he said, *she had received an anonymous letter the day after Sir Theodosius death, charging her plump with poisoning Sir Theodosius; that she called him and read it to him and she trembled; he said, she desired he would not let his wife know of that letter, and asked him if he would give up his right to the personal estate, and some estates of about two hundred pounds a year belonging to the family. I think that was the substance of that conversation.*

JOHN DARBYSHIRE cross-examined by Mr. NEWNHAM.

Q. Had you ever any acquaintance with Mr. Donellan before he came to Warwick gaol?

A. No.

Q. You never had seen him before?

A. Never.

Q. When had you this conversation?

A. In less than a month after the time he came into the gaol.

Q. Soon after his coming?

A. It was not a month I am sure.

Q. What way of life was you in before you came to this gaol?

A. A tradesman, and a very reputable one.

Q. Not a successful tradesman?

A. I have failed.

Q. How often?

A. Twice; the more is my misfortune.

Q. Do you mean twice a bankrupt?

A. Yes; but *I fell fairly*.

Q. Where did you live?

A. At Birmingham.

Q. You know Mr. Pope very well?

A. Yes.

Q. And Sir Alexander Leith too?

A. I did not know him.

Q. But you did know Mr. Pope?

A. Yes; I did, but not Sir Alexander Leith; I never spoke to Sir Alexander in my life.

Q. What time of the day was it when this conversation happened which you represent to have been held between you.

A. I fancy it was before dinner; we had had that conversation, at least parts of it, frequently; he talked of this affair I suppose hundreds of times.

Q. So that was his usual account?

A. Not that very language, speaking about Sir Theodosius Boughton's death being imputable to Lady Boughton; but has said, that *he was innocent*; he said, *it was impossible he could do a thing which was not in his power*; he said, *it was never in his power to do it.*

Mr. Howarth. Did the prisoner in any of those conversations ever make a doubt that Sir Theodosius Boughton was poisoned by some body?

A. Since Christmas I think he has said *he was not poisoned*.

Q. How lately has he altered in his conversation?

A. I cannot justly say.

Q. Have you in conversation heard him say that he was poisoned?

A. Yes I have.

Sir WILLIAM WHEELER, Bart. sworn. Examined by Mr. HOWARTH.

Q. You, I believe, was the guardian of Sir Theodosius Boughton?

A. I was.

Q. Do you remember receiving that letter? (*showing a letter to Sir William*)

A. Yes; I received that letter from Captain Donellan, it is his hand writing.

M

" Dear

(The letter read.)

" Dear Sir,

" I AM very sorry to be the communicator of Sir Theodosius's death to you, which happened this morning; he has been for some time past under the care of Mr. Powell, of Rugby, for a similar complaint to that which he had at Eaton. Lady Boughton and my wife are inconsolable; they join me in best respects to Lady Wheeler, yourself, and Mr. and Mrs. Sitwell. We are much concerned to hear of their loss.

I am, dear Sir, with the greatest esteem,

Your most obedient servant,

Lawford-Hall, Aug. 30, 1780.

JOHN DONELLAN.

To Sir WILLIAM WHEELER, Bart.

Sir William Wheeler. This is my answer,

" Dear Sir,

Lemington, Sept. 2, 1780.

" I RECEIVED the favour of your letter the day after my return to Mr. Sitwell's. The sudden and very untimely death of my poor unfortunate ward gives me great concern; and we condole with Lady Boughton, Mrs. Donellan, and yourself, for his loss. I send a servant with this, to know how Lady Boughton and Mrs. Donellan do, after so sudden and great a shock. Please to make our respects to them; at a proper time I shall make my respects to them and you in person,

I am, dear Sir,

Your obedient humble servant,

To John Donellan, Esq.

WM. WHEELER.

Lawford-Hall.

Q. When was first intimated to you any suspicion of this young gentleman having been poisoned?

A. On Friday the 1st of September.

Q. Did you in consequence of that information write any letter to the prisoner respecting it?

A. No; it was only a flying report round the country.

Q. When and for what reason was it that you was induced to write a letter to the prisoner respecting it?

A. On the 3d of September Mr. Newlam came to my house, and read a letter from Lord Denbeigh; in consequence of what I heard from him I wrote a letter to the prisoner.

Q. Have you that letter or a copy of it?

A. This is a copy of it.

Q. Can you from your recollection undertake to say this is a copy of what you wrote?

A. It is.

(The copy of that letter read.)

" DEAR SIR,

Lemington, Sept. 4, 1780.

" SINCE I wrote to you last, I have been applied to, as the guardian of the late Sir Theodosius Boughton, to enquire into the cause of his sudden death; and report says, that he was better the morning of his death, and before he took the physick, than he had been for many weeks, and that he was taken ill in less than half an hour, and died in two hours after he had swallowed the physick. Supposing this to be true, there is great reason to believe that the physick was improper, and that it might be the cause of his death: as it makes a great noise in the country, and as I find that I am very much blamed for not making some enquiry into the affair, I thought it necessary to call upon Mr. Powell to give an account in what state of health he found Sir Theodosius Boughton when he first attended him; what medicines he gave him, and particularly the dose of physick that he took the morning of his death, and what state he was in at the time of his death. I expect Mr. Powell here every moment; his character is at stake; and I dare say it will be a great satisfaction to him to have the body opened, and though it is very late to do it now, yet it will appear from the stomach, whether there is any thing corrosive in it. As a friend to you, I must say, that it will be a great satisfaction to me, and I am sure it must be so to you, Lady Boughton, and Mrs. Donellan, when I assure you that it is reported, all over the country, that he was killed either by medicine or by poison. The country will never be convinced to the contrary unless the body is opened, and we shall be all very much blamed: therefore I must request it of you and the family, that the body may be immediately opened by Mr. Wilmer, of Coventry, or Mr. Snow, of Southam, in the presence of Dr. Rattray, or any other Physician

sician that you and the family think proper. Mr. Powell is now with me, and from his account it does not appear that his medicines could be the cause of his death: he has not given him any mercury since June, and the physick that he took the morning of his death was composed of rhubarb and jalap, two very innocent drugs. Mr. Powell says it will be a great satisfaction to him to have the body opened; and, for the above reasons, I sincerely wish it, as no reflection can be cast upon me, Lady Boughton, or you, if it is done; and if it is not, we shall be much blamed. I will only add, that this affair makes me very unhappy, as it must do you, Lady Boughton, and Mrs. Donellan. I beg of you to lay this affair before Lady Boughton, in as tender a manner as you can, and to point out to her the real necessity of complying with my request, and to say that it is expected by the country. I am, with respect to Lady Boughton, yourself, and Mrs. Donellan,

Your sincere friend, and obliged humble servant,

WM. WHEELER."

To John Donellan, Esq. Lawford-Hall.

I received this answer from Mr. Donellan:

"DEAR SIR,

"I this moment received a letter from you, by Mr. Powell, which I communicated to Lady Boughton and my wife, and we most cheerfully wish to have the body of Sir Theodosius opened for the general satisfaction, and the sooner it is done the better; therefore I wish you could be here at the time.

I am, dear Sir, with the greatest sincerity, your most obedient humble servant,
Lawford-hall, Sept. 4, 1780.

JOHN DONELLAN."

To Sir William Wheeler, Bart.

"DEAR SIR,

"I HAVE this moment received the favour of your letter, and I am very happy to find that Lady Boughton, Mrs. Donellan, and yourself, approve of having the body opened. I should wish to show Lady Boughton and every part of her family every respect that is in my power, but it would be very improper for me, or indeed any other person, except the faculty, to attend upon this occasion. One surgeon, a physician, and Mr. Powell, should attend as soon as possible. I hope that you understand that it is not to satisfy my curiosity, but the publick, that I wished to have this done, and to prevent the world from blaming any of us, that had any thing to do with poor Sir Theodosius.

I am, with great sincerity, your faithful humble servant,

WILLIAM WHEELER."

To John Donellan, Esq. Lawford-Hall.

I received this answer from Captain Donellan:

"DEAR SIR,

"GIVE me leave to express the heartfelt satisfaction I enjoyed in the receipt of your letter, as it gave Lady Boughton, my wife, and self an opportunity of instantly observing your advice in all respects; I sent for Dr. Rattray and Dr. Wilmer; they brought another gentleman with them; Mr. Powell gave them the meeting, and upon receipt of your last letter I gave it to them to peruse and act as it directed. The four gentlemen proceeded accordingly, and I am happy to inform you that they fully satisfied us, and I wish you would hear from them the state they found the body in, as it will be an additional satisfaction to me that you should hear the account from themselves. Sir Theodosius made a very free use of ointments and other things, to repel a large b—— which he had in his groin. So he used to do at Eaton, and Mr. Jones's, he told me often. I repeatedly advised him to consult Dr. Rattray, or Mr. Carr, but as you know Sir Theodosius, you will not wonder at his going his own way, which he would not be put out of. I cannot help thinking but that Mr. Powell acted to the best of his judgement for Sir Theodosius in this and the last case, which was but a short time finished before the latter appeared. Lady Boughton expressed her wishes to Sir Theodosius, that he would take proper advice for his complaints, but he treated her's as he did mine. She and my wife join in best respects, &c.

5th Sept. 1780.

JOHN DONELLAN."

To Sir William Wheeler, Bart.

Q. Upon

2. Upon the receipt of this letter did you entertain any idea but that the body had been opened?

A. No.

Q. When were you first undeceived in that particular?

A. On Wednesday morning.

Q. Did you, in consequence of being undeceived, write any letter to Mr. Donellan?

A. I wrote this letter:

“DEAR SIR,

“FROM the letter that I received from you yesterday morning, I concluded that the body of the late Sir Theodosius Boughton had been opened, and that I should receive an account from the faculty of the state that they found it in. I have not yet heard from them, but find that they found the body in so putrid a state that they thought it not safe to open it. I likewise find, that a young man of Rugby (Mr. Bucknill) did attend, and offer to open the body, but it was not done. If Bucknill and Snow will do it, I by all means recommend it to you to let it be done, as it must be a satisfaction to you as well as myself, to have the cause of his sudden death cleared up to the world. If there is any danger in opening the body, it is to themselves, and not to the family, as the body may be taken into the open air. If I am not misinformed, Mr. Bucknill is, or was very desirous of opening the body. I am, with respects to Lady Boughton, Mrs. Donellan, and yourself, your sincere and obliged humble servant,

Leamington, Sept. 6, 1780.

“If Snow is from home, I do not see any impropriety in Bucknill’s doing it, if he is willing. I will send Snow to Bucknill, that if Bucknill should be gone to Lawford-Hall, he may follow him.”

To John Donellan, Esq. Lawford-Hall.

Sir William Wheeler. This is the answer I received to that letter on the evening Sir Theodosius was buried.

“DEAR SIR,

“IN answer to your’s, which I this moment received, I now, as I did yesterday in my letter, refer you and any one that pleases, for the particulars respecting the late Messrs. Ratray, Wilmer, Powell, and another gentleman, found Sir Theodosius’s body in; they, agreeable to your directions, were by themselves upon that business, and I was in hopes you had seen them since I wrote to you yesterday morning. Mr. Bucknill, of Rugby, called here afterwards, and said that he heard that we wanted to have the body opened. I told him we did, and that I wrote to the above gentlemen for that purpose, and that you had named them to us; and if you had named him (Bucknill) we would have sent to him as we did to the other gentlemen. We fixed this day for the corpse to be buried, as being the eighth day since Sir Theodosius died; and if the coffin had not been foldered by the plumber, Crooke, from Rugby, Mr. Bucknill should be welcome to inspect the body. The time fixed for the burial is three o’clock to-day; and if you please to order it to be postponed until the state of the body is made known to you by the people you ordered to come here, please to let me know it before. If we do not hear from you, we conclude you have seen some of them, and left you should not, I will send to Dr. Ratray to call upon you directly, and bring with him my note to him to come here with Wilmer to open Sir Theodosius.

We are, dear Sir, your most humble servants, and in particular

JOHN DONELLAN.”

A quarter before one o’clock, Wednesday.
To Sir William Wheeler, Bart.

SIR WILLIAM WHEELER, *Cross-examined by Mr. NEWNHAM.*

Q. Did you know the late Sir Edward Boughton?

A. I did, very well.

Q. Do you recollect what he died of?

A. He died suddenly, but I don’t know what it was of.

Q. I believe he died as he was walking home?

A. I understand so.

Mr. Howorth. What sort of person was Sir Edward Boughton?

A. A short thick-set fat man.

Q. What sort of person was the late Sir Theodosius?

A. He was very thin, and was taller than his father.

Court. How far do you live from Lawford-hall?

A. Eight miles, the nearest way, the coach-road is ten miles at least. The servants always go the coach-way, because the other is a trespass.

" To the Coroner and Gentlemen of the Jury at Newbold.

" Gentlemen,

" MY understanding from report that you are to meet again to-day, I hold it my duty to give you every information I can recollect respecting the business which you are upon, exclusive of what appeared before you last Saturday when Lady Boughton and self was with you.

" During the time Sir Theodosius was here, great part of it was spent in procuring things to kill rats, with which this house swarms remarkably. He used to have arsenick by the pound weight at a time, and laid the same in and about the house in various places, and in as many forms. We often expostulated with him about the extreme careless manner in which he acted respecting himself and the family in general; his answer to us was, that the men servants knew where he had laid the arsenick, and for us we had no business with it. At table we have not knowingly eaten any thing for many months past which we perceived him to touch, as we well knew his extreme inattention to the bad effects of the various things he frequently used to send for; for the above purposes, as well as for making up horse medicines, he used to make up vast quantities of Goulard from a receipt which he had from Mrs. Newlam, she will give you a copy of it if you please, and it will speak for itself. Since Sir Theodosius's death the gardener collected several fish which Sir Theodosius laid; he used to split them and rub the stuff upon them: the gardener was ordered to bury the fish. The present men servants and the former ones for about two years back, with William Matthews the house carpenter, can relate the particulars respecting the above having been Sir Theodosius's common practice when he was able, or that he was not a fishing, or attending his rabbits, or at carpenter's work. Lady Boughton, my wife, and self have shewed the utmost willingness to satisfy the publick respecting Sir Theodosius's death, by every act within the limits of our power. The accompanied letter from Sir William Wheeler will testify the same, as well as our orders, that every one that came to the house should see the corps before it was put into the coffin the fourth day, and the eighth day the corpse was sent to the vault at Newbold. I am, Gentlemen, your most obedient humble servant,

14th Sept. 1780, Thursday, Lawford-Hall.

JOHN DONELLAN."

The Counsel for the Crown called a witness to prove the copy of the letter which Mr. Howorth in his opening, stated to have been sent from the prisoner to Mrs. Donellan, but owing to a defect in the evidence, the copy could not be received.

PRISONER'S DEFENCE.

(As read by the Clerk of the Arrigns.)

My Lord, and Gentlemen of the Jury,

PERMIT me, in this unfortunate situation, to submit to your consideration a few particulars and observations relating to this horrid charge which has been brought against me.

Although many false, malevolent, and cruel reports have been circulated in the publick print; and throughout the country, ever since my confinement, tending to prejudice the minds of the people in an opinion injurious to my honour, and dangerous to my life—I still have confidence that your justice and humanity cannot be misled by them.

My marriage with Mrs. Donellan, in the year 1777, was with the entire approbation of her friends and guardians; and to convince both her and them of my honourable intentions, I entered into articles for the immediate settling of her whole fortune on herself and children, and deprived myself of the possibility of enjoying even a life estate in case of her death; and this settlement did not extend only to her then fortune, but to all future expectancies.

Ever since my marriage, the deceased and myself lived in perfect friendship and cordiality; and it is well known to the family, and to many respectable persons, that upon several occasions of danger to his life, which the deceased had unguardedly fallen into, I have stepped in and prevented it: Such instances of friendship, on my part, are, I trust sufficient to convince you that I could never entertain any design against his life.

Immediately after the death of Sir Theodosius, I wrote a letter to Sir William Wheeler, one of his guardians, to acquaint him of the melancholy event; and to my letter Sir William Wheeler sent an answer, condoling with the family for the loss. A few days after, I think on the 4th of September, I received a second letter from Sir William, respecting the surprise which had arisen in the country respecting Sir Theodosius's death, and his wish to have the body opened for general satisfaction. This letter was brought me by Mr. Powell, and so anxious was I to give that satisfaction, that by him I returned an answer, expressing the cheerful acquiescence of myself and the family, to his propositions; and immediately after sent a servant to Coventry, to Mr. Wilmer and Dr. Ratray (gentlemen alluded to in Sir William's letter) requesting them to be at Lawford directly, to perform the operation.—These gentlemen arrived there about nine o'clock at night, when I produced to them Sir William's letter, and desired they would pursue his instructions. They accordingly, with Mr. Powell, went up stairs, and examined the body; and, after con-

N

tinuing

tinuing there some time, returned and informed the family that the same was so putrid, it was not only dangerous to approach it, but impossible at that time to discover the cause of Sir Theodosius's death. I then expressed my wish that Sir William might be acquainted with the result of their attendance, and I think Dr. Rattray promised to wait upon him the next morning for that purpose. But by a letter I received from Sir William soon afterwards, I found Dr. Rattray had not been with him, and therefore immediately sent a letter to Mr. Wildmer, particularly requesting that he and Dr. Rattray would, on receipt thereof, wait upon Sir William Wheeler; to which he wrote me an answer, informing me that he was then engaged in a case of midwifery, but that as soon as he should be disengaged, he would comply with my request; and further informed me, that Dr. Rattray was then from home, that if he should return before he, Mr. Wilmer, left Coventry, he would communicate my wishes to him.

Soon after this, a Mr. Bucknill called at Lawford, and said, he had understood that I wished to have the body of Sir Theodosius opened. I informed him that it was my wish, but that Mr. Wilmer, Dr. Rattray, and Mr. Powell, had attended the preceding evening, and declared, that from the high state of putrefaction the body was in, it was not only unsafe to open it, but at that time impossible to form any opinion with respect to the same; however, I told him, that I should, nevertheless, think myself obliged to him to undertake the matter, if he would wait upon Sir William Wheeler, and obtain his consent to do it.

Mr. Bucknill then left me, and the next morning, being the 6th of September, I received another letter from Sir William Wheeler, wherein he mentioned that he had been informed of Mr. Bucknill's having expressed a wish to open the body, and that therefore he had requested Mr. Snow (the apothecary of his family) to call upon him, and take him to Lawford for that purpose; in which letter Sir William also recommended to me, to let them open the body if they should attend.

This day had been fixed upon several days prior to the same for Sir Theodosius's funeral, and the tenants and others invited, were then there ready to attend the same.

About three o'clock that afternoon, Mr. Bucknill arrived alone, and immediately on his arrival I asked him, if the plumber and carpenter (who were then there) should open the coffins, who desired they might wait till Mr. Snow should attend.

Mr. Bucknill waited some time, and then informed me that he must go, but said he would return again, and desired that if Mr. Snow should arrive in the mean time, he might wait. I pressed him to stay, but he said he could not do it.

Soon after Mr. Bucknill was gone, Mr. Snow arrived, and waited a considerable time for Mr. Bucknill's return; but on his not arriving, he at length sent for the plumber and others into the parlour, and after examining them as to the putridity of the body, declared he would not be concerned in opening it for Sir Theodosius's estate; and recommending it to the family to have the same buried that afternoon, immediately left Lawford before Mr. Bucknill's return.

The body was therefore buried that evening, but not by my directions or desire. This my lord, and gentlemen of the Jury, was the undisguised part I took; but such is my misfortune, that not only a gentleman, unused to attend this bar, whose persuasive abilities the most conscious innocence must tremble at, has been called in against me—but the most trifling actions and expressions have been handled to my prejudice: my private letters have been broke open, and many other unjustifiable steps have been taken to prejudice the world, and imbitter my defence. However, depending upon the conscience of my judge, and the unprejudiced impartiality of my jury, I trust my honour will be protected by their verdict.

For the Prisoner. ANDREW MILLER sworn. Examined by Mr. DAYRELL.

Q. You are I understand post-master at Rugby?

A. Yes; I am.

Q. Did you keep the Bear Inn at Rugby at the time the assembly was held at that house?

A. Yes.

Q. Do you remember any quarrel happening at your house between Sir Theodosius Boughton and Mr. Wildgoose?

A. Yes.

Q. How long is it ago?

A. It was on Tuesday the 1st of June 1778.

Q. Do you remember whether Mr. Donellan was sent for or not upon the occasion?

A. I remember something of it.

Q. Do you remember Mr. Donellan's coming?

A. Yes I do.

Q. Do you remember what part Mr. Donellan acted upon that occasion?

A. I thought at that time that he acted in such a manner as to prevent their fighting.

Q. Were any applications made to you to deliver up to the prosecutor's attorney any letters that might come from Captain Donellan?

A. I don't recollect;—I don't understand what you said about the letters;—I re-
of some letters. Mr.

Mr. GEORGE LOGGIE *sworn*; *Examined by Mr. GREEN.*

Q. Do you know Mr. Chartres, a clergyman?

A. Yes.

Q. Do you know of any misunderstanding or a quarrel between him and Sir Theodosius Boughton?

A. Yes; I was present at the time, I don't recollect the exact time, but it was about a year and an half ago. Part of the quarrel was between Sir Theodosius Boughton, and a Mr. Miller, Mr. Chartres interfered to accommodate the matter, Mr. Miller asked pardon, and Sir Theodosius forgave Mr. Miller; then Sir Theodosius insisted upon fighting Mr. Chartres, in consequence of that, Sir Theodosius sent for Captain Donellan, the Captain came over the next morning in consequence of the letter, and interfered as a mediator, but I considered the matter as settled, before the Captain came.

Mr. JOHN HUNTER *sworn*; *Examined by Mr. NEWNHAM.*

Q. Have you heard the evidence that has been given by these gentlemen?

A. I have been present the whole time.

Q. Did you hear Lady Boughton's evidence?

A. I heard the whole.

Q. Did you attend to the symptoms her Ladyship described, as appearing upon Sir Theodosius Boughton, after the medicine was given him?

A. I did.

Q. Can any certain inference upon physical or chirurgical principles be drawn from those symptoms, or from the appearances externally or internally of the body, to enable you, in your judgment to decide, that the death was occasioned by poison?

A. I was in London then, a gentleman who is in Court waited upon me with a copy of the examination of Mr. Powell and Lady Boughton, and an account of the dissection, and the physical gentlemen's opinion upon that dissection.

Q. I don't wish to go into that, I put my question in a general way?

A. The whole appearances upon the dissection, explain nothing but putrifaction.

Q. You have been long in the habit of dissecting human subjects? I presume you have dissected more than any man in Europe?

A. I have dissected some thousands during these thirty-three years.

Q. Are those appearances you have heard described, such in your judgment, as are the result of putrifaction in dead subjects?

A. Entirely.

Q. Are the symptoms that appeared after the medicine was given, such as necessarily conclude that the person had taken poison?

A. Certainly not.

Q. If an apoplexy had come on, would not the symptoms have been nearly or somewhat similar?

A. Very much the same.

Q. Have you ever known or heard of a young subject dying of an apoplectic or epileptic fit?

A. Certainly; but with regard to the apoplexy not so frequent, young subjects will perhaps die more frequently of epilepsies than old ones; children are dying every day from teething, which is a species of epilepsy arising from an irritation.

Q. Did you ever in your practice, know an instance of laurel water being given to a human subject?

A. No, never.

Q. Is any certain analogy to be drawn from the effects of any given species of poison upon an animal of the brute creation, to that it may have upon a human subject?

A. As far as my experience goes, which is not a very confined one, because I have poisoned some thousands of animals, they are very nearly the same, opium for instance will poison a dog similar to a man, arsenic will have very near the same effect upon a dog, as it would have I take for granted upon a man; I know something of the effects of them, and I believe their operations will be nearly similar.

Q

Q. Are

Q. Are there not many things which will kill animals almost instantaneously, that will have no detrimental or noxious effect upon a human subject; spirits, for instance, occur to me.

A. I apprehend a great deal depends upon the mode of experiment; no man is fit to make one, but those who have made many, and paid considerable attention to all the circumstances that relate to experiments, it is a common experiment which I believe seldom fails, and it is in the mouth of every body, that a little brandy will kill a cat: I have made the experiment, and have killed several cats, but it is a false experiment; in all those cases where it kills the cat, it kills the cat by getting into her lungs, not into her stomach, because, if you convey the same quantity of brandy, or three times as much into the stomach, in such a way as the lungs shall not be effected, the cat will not die; now in those experiments that are made by forcing an animal to drink, there are two operations going on, one is a refusing the liquor, by the animal, its kicking and working with its throat, to refuse it, the other is a forcing the liquor upon the animal, and there are very few operations of that kind, but some of the liquor gets into the lungs, I have known it from experience.

Q. If you had been called upon to dissect a body, suspected to have died of poison should you or not have thought it necessary to have pursued your search through the guts?

A. Certainly.

Q. Do you not apprehend that you would have been more likely to receive information from thence than any other part of the frame.

A. That is the track of the poison, and I should certainly have followed that track through.

Q. You have heard of the froth issuing from Sir Theodosius's mouth, a minute or two before he died, is that peculiar to a man dying of poison, or is it not very common in many other complaints?

A. I fancy it is a general effect, of people dying in what you may call health, in an apoplexy, or epilepsy, in all sudden deaths, where the person was a moment before that in perfect health.

Q. Have you ever had an opportunity of seeing such appearances upon such subjects?

A. Hundreds of times.

Q. Should you consider yourself bound, by such an appearance, to impute the death of the subject to poison?

A. No, certainly not; I should rather suspect an apoplexy, and I wish in this case, the head had been opened to remove all doubts.

Q. If the head had been opened do you apprehend all doubts would have been removed?

A. It would have been still farther removed, because, although the body was putrid so that one could not tell whether it was a recent inflammation, yet an apoplexy arises from an extravasation of blood in the brain, which would have laid in a coagulum. I apprehend although the body was putrid, that would have been much more visible than the effect any poison could have had upon the stomach or intestines.

Q. Then in your judgment upon the appearances the gentlemen have described no inference can be drawn from thence that Sir Theodosius Boughton died of poison?

A. Certainly not, it does not give the least suspicion.

Mr. JOHN HUNTER *Cross-examined* by Mr. HOWORTH.

Q. Having heard the account to day that Sir Theodosius Boughton apparently in perfect health had swallowed a draught which had produced the symptoms described. I ask you whether any reasonable man can entertain a doubt that that draught whatever it was produced those appearances?

A. I don't know well what answer to make to that question.

Q. Having heard the account given of the health of this young gentleman on that morning, previous to taking the draught, and the symptoms that were produced immediately upon taking the draught. I ask your opinion as a man of judgment, whether you don't think that draught was the occasion of his death?

A. With regard to his being in health, that explains nothing; we frequently, and indeed generally see the healthiest people dying suddenly, therefore I shall lay little stress upon that; as to the circumstances of the draught, I own they are suspicious, every man is just as good a judge as I am.

Court. You are to give your opinion upon the symptoms only, not upon any other evidence given.

Mr. Howerib. Upon the symptoms immediately produced, after the swallowing of that draught, I ask whether, in your judgment and opinion, that draught did not occasion his death? *A.* I can only say, that it is a circumstance in favour of such an opinion.

Court. That the draught was the occasion of his death? *A.* No; because the symptoms afterwards are those of a man dying, who was before in perfect health; a man dying of an epilepsy or apoplexy, the symptoms would give one those general ideas.

Court. It is the general idea you are asked about now, from the symptoms which appeared upon Sir Theodosius Boughton immediately after he took the draught followed by his death so very soon after; whether, upon that part of the case, you are of opinion that the draught was the occasion of his death? *A.* If I knew the draught was poison, I should say, most probably, that the symptoms arose from that; but when, I don't know that that draught was poison, when I consider that a number of other things might occasion his death, I cannot answer positively to it.

Court. You recollect the circumstance that was mentioned of a violent heaving in the stomach? *A.* All that is the effect of the voluntary action being lost, and nothing going on but the involuntary.

Mr. Howerib. Then you decline giving any opinion upon the subject? *A.* I don't form any opinion to myself; I cannot form an opinion because I can conceive if he had taken a draught of poison it arose from that; I can conceive it might arise from other causes.

Q. If you are at all acquainted with the effects and operations of distilled laurel-water, whether the having swallowed a draught of that, would not have produced the symptoms described? *A.* I should suppose it would; I can only say this of the experiments I have made of laurel-water upon animals, it has not been near so quick; I have injected laurel-water directly into the blood of dogs, and they have not died; I have thrown laurel-water, with a precaution, into the stomach, and it never produced so quick an effect with me, as described by those gentlemen.

Q. But you admit that laurel-water would have produced symptoms such as have been described? *A.* I can conceive it might.

Mr. Newman. Would not an apoplexy or an epilepsy, if it had seized Sir Theodosius Boughton at this time, though he had taken no physic at all, have produced similar symptoms too? *A.* Certainly.

Q. Where a father has died of an apoplexy, is not that understood, in some measure, to be constitutional? *A.* There is no disease whatever, that becomes constitutional, but what can be given to a child. There is no disease which is acquired, that can be given to a child; but whatever is constitutional in the father, the father has a power of giving that to the children; by which means it becomes what is called hereditary; there is no such thing as an hereditary disease; but there is an hereditary disposition for a disease.

Mr. Howerib. Do you call apoplexy constitutional? *A.* We see most diseases are constitutional; the small-pox is constitutional, though it requires an immediate cause to produce the effects. The venereal disease is hereditary. I conceive apoplexy as much constitutional as any disease whatever.

Q. Is apoplexy likely to attack a thin young man who had been in a course of taking cooling medicines before? *A.* Not so likely, surely, as another man; but I have, in my account of dissections, two young women dying of apoplexies.

Q. But in such an habit of body, particularly attended with the circumstance of having taken cooling medicines, it was very unlikely to happen? *A.* I do not know the nature of medicines so well as to know that it would hinder an apoplexy from taking effect.

Court. Give me your opinion in the best manner you can, one way or the other, whether, upon the whole of the symptoms described, the death proceeded from that medicine, or any other cause? *A.* I do not mean to equivocate, but when I tell the sentiments of my own mind, what I feel at the time, I can give nothing decisive.

Mr. JUSTICE BULLER.

Gentlemen of the Jury,

The prisoner at the bar, John Donellan, stands indicted for the wilful murder of Sir Theodosius Boughton, which is charged to have been effected by poison.

Before I state the evidence, I will take notice of a circumstance mentioned by the prisoner in his defence, which is, that a great many false and cruel reports have been circulated in the public prints through the country, ever since his confinement, tending to prejudice the minds of the people against him. If such have been printed, it has been extremely improper and highly criminal, for there is nothing tends more to corrupt the course of justice than attempting to prejudice mens minds before the cause comes to be tried. Whether the fact be true or false is what I cannot say, for I really do not know of my own knowledge; but if it be true, I am confident you will take care to strip your minds of every thing you may have heard of this cause before you got into that box; and you will consider it coolly and deliberately upon the evidence given before you, and pronounce one way or the other, agreeably to what appears to you to be the truth of the case, and that in the verdict which may be finally given, whatever that may be, you will take nothing into your consideration that has not been proved in the course of the trial.

On the part of the prosecution a great deal of evidence has been laid before you.—It is all circumstantial evidence, and in its nature it must be so, for in cases of this sort, no man is weak enough to commit the act in the presence of other persons, or to suffer them to see what he does at the time; and therefore it can only be made out by circumstances, either before the committing of the act,—at the time when it was committed,—or subsequent to it.—And a presumption, which necessarily arises from circumstances, is very often more convincing and more satisfactory than any other kind of evidence, because it is not within the reach and compass of human abilities to invent a train of circumstances which shall be so connected together as to amount to a proof of guilt, without affording opportunities of contradicting a great part, if not all of those circumstances. But if the circumstances are such, as when laid together bring conviction to your minds, it is then fully equal, if not, as I told you before, more convincing than positive evidence. Whether the circumstances in this case ~~do or do not~~ amount to that conviction is a matter for your discussion. I will ~~state~~ the evidence as I have penned it down, and I trust I have not omitted any thing that is material, though I am conscious I have taken down a great deal that may not be material; and if I am thought by the Counsel on either side to omit any thing material, I beg they will correct me, and I shall be glad to receive correction at their hands.

His Lordship now summed up the evidence on both sides, and then proceeded thus:

Gentlemen, This is the whole of the evidence on the part of the prosecution, and on the part of the prisoner, but in so long a trial as this has been, I don't think I should discharge my duty if I rested contented with doing nothing more than merely stating the evidence which has been given in a cause of so great length, consisting of such a variety of circumstances. I hold it to be a duty which I owe to the public, and which I owe to you, to state to you what are the impressions that the evidence makes upon my mind, and to give you my observations upon it, but at the same time previously to inform you, that you are not to adopt any opinion because it is mine: you are to consider the evidence yourselves, you are to form your own opinions, and if you differ from me in one, in any, or in all of the reasons I give, it is your judgment, and not mine, that must decide this cause.

Now there are two questions for you to consider; the first is,—Did the deceased die of poison?—With respect to that you have had the evidence on the part of the prosecution of a great number of very able men in the physical line, who have given you their opinions that they have no doubt but the death was occasioned by poison.

The first of the physicians called is Dr. Rattray: he says, he has no doubt at all but the medicine was the cause of the death, and in his opinion the appearances which he saw upon the body could not arise from putrefaction. He has taken great pains to in-

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form himself of the effects of laurel-water; he has tried various experiments, and has told you the effect each experiment produced. He mentioned the circumstance of a biting upon his tongue on opening the body of Sir Theodosius Boughton, which likewise affected him in all the experiments he made afterwards; and from thence, he says, he is satisfied that the biting which he felt upon his tongue, at the time he opened this body, did proceed, in some measure, from laurel-water. He says, he never saw any heaving of the stomach attend either an epilepsy or an apoplexy.

Mr. Wilmer says, that though, from the appearances of the body, he is not able to form any opinion of the cause of the death, yet he is now clearly of opinion that Sir Theodosius Boughton's death was occasioned by the draught administered by Lady Boughton. He is asked about the epilepsy, and he says, the heaving of the stomach is not a circumstance attending epilepsies. Another circumstance to be attended to, upon the evidence, is, that when they came to Lawford Hall, neither of them were told that there was the smallest suspicion that poison had been administered to Sir Theodosius. If they had been, they both swear, in the strongest terms, that they would have opened the body at all events.

Doctor Ash agrees in opinion with them, that Sir Theodosius died in consequence of the draught; and he says, that he can attribute the effects and symptoms which have been spoken of, to nothing but poison. That the appearance, as mentioned, upon the bodies of animals upon which this poison was used, were similar to those symptoms which appear where an animal is killed by vegetable poison.

Doctor Parsons agrees in the same opinion, that Sir Theodosius Boughton did die of the poison; and he says, that the smell is a great characteristic of laurel water. He agrees, that the heavings are to be attributed to the effect of the medicine; his words were, "They must be attributed to the effects of the medicine undoubtedly." And that the laurel-water will produce all the effects that have been mentioned.

Gentlemen, these are the gentlemen of the faculty who have given their opinion on the part of the prosecution.

For the prisoner you have had one gentleman called, who is likewise of the faculty, and a very able man. I can hardly say what his opinion is, for he does not seem to have formed any opinion at all of the matter. He, at first, said he could not form an opinion whether the death was, or was not, occasioned by the poison, because he could conceive that it might be ascribed to other causes. I wished, very much, to have got a direct answer from Mr. Hunter, if I could, what, upon the whole, was now the result of his attention and application to the subject; and what was his present opinion; but he says he can say nothing decisive. So that, upon this point, if you are to determine upon the evidence of the gentlemen who are skilled in the faculty only, you have the very positive opinion, of four or five gentlemen of the faculty, that the deceased did die of poison. On the other side, you have what I really cannot myself call more than the *doubt* of another; for it is agreed, by Mr. Hunter, that the laurel-water would produce the symptoms which are described. He says, an epilepsy or apoplexy would produce the same symptoms; but, as to an apoplexy, it is not likely to attack so young, and so thin a man as Sir Theodosius was; and, as to an epilepsy, the other witnesses tell you, they don't think the symptoms which have been spoken of, do shew that Sir Theodosius had any epilepsy at the time.

Gentlemen, this is the case as it stands upon the evidence of the physical gentlemen only; but, if there be a doubt upon that evidence, we must take into consideration all the other circumstances, either to shew that there was poison administered, or that there was not; and every part of the prisoner's conduct is material to be considered.

The first evidence that has been spoken of is, that for three weeks or more before the death, the prisoner had entertained doubts that something or other might happen to Sir Theodosius before he came of age. This is sworn to by Lady Boughton. On the evening before Sir Theodosius died, the prisoner came out of the House into the garden about seven o'clock, and what is then his address to Lady Boughton and his wife? He says, he has been to see Sir *The*. fishing, and that he had been persuading Sir *The*. to come in, lest he should take cold, but could not. Is that true? You have it sworn by a servant who was with Sir Theodosius Boughton all the time, that the prisoner was not with him at all. What was there then that called upon the prisoner unnecessarily to tell such a story? If you can find an answer to it that does not impute guilt to the prisoner, and if it be such an answer as you think is a fair and reasonable one, you will adopt it; but upon this fact, and upon many others that I must point out to your attention, I can only say, that it frequently happens that unnecessary, strange, and contradictory declarations cannot be accounted for, otherwise than by a fatality which attends guilt.

guilt. Then you have it sworn by Lady Boughton, that the prisoner, when he came up into the bed chamber, accosted her in a manner as if he knew nothing of what had been doing; he asked, what do you want?—Why had he heard nothing about it?—The servant had told him what Lady Boughton had said, and that he was going in a great hurry for the apothecary, Powell. Lady Boughton then told him she thought if such physic had been given to a dog it would have killed him.

What is the next step taken by the prisoner? He asks for the bottle. Is he not apprized at that time by Lady Boughton that she suspected what it was that killed Sir Theodosius? for though she does not use the term poison, she says she thought if such physic had been given to a dog it would have killed him.—Then what is the next thing done by the prisoner? He asks her which is the bottle? she shews it to him; when he had got it in his hand, he asks again, is this it? she says, yes; he immediately pours in water, and washes it out. Now, Gentlemen, can you find a reason for that? was there any thing so likely to lead to a discovery as the small remains, however small they might have been, of medicine in the bottle? but that is destroyed by the prisoner. In the moment he is doing it, he is found fault with. What does he do next? He takes the second bottle, puts water into that, and washes it also. He is checked by Lady Boughton, and asked what he meant by it, why he meddles with the bottles? His answer is, he did it to taste it; but did he taste the first bottle? Lady Boughton swears he did not. The next thing he does is to get all the things sent out of the room, for when Sarah Blundell comes up, he orders her to take away the bottles, the basin, and the dirty things. He puts the bottles into her hand, and she was going to carry them away, but Lady Boughton stopped her. Why were all these things to be removed? why was it necessary for the prisoner, who then was fully advertised of the consequence by Lady Boughton, to insist upon having every thing removed. Why should he be so solicitous to remove every thing that might lead to a discovery? When they came down stairs, which was some time afterwards, Lady Boughton tells you of another conversation on the part of the prisoner, and if you believe that, it shews that what he said about tasting the medicine, was not from an intention at the time to taste it, but was an after-thought for he says to his wife, your mother has been pleased to take notice of my washing the bottles out; and he adds, I don't know what I should have done if I had not thought of saying I put the water in, and put my finger upon it to taste it. This he states afterwards as a sudden thought which occurred to him at the instant as an excuse. She swears that he did not taste the first bottle at all. Then the servant is called, for the prisoner is anxious to know what he remembers about the time of his going out. He fixes the time of the prisoner's going out to be seven in the morning, and then the prisoner answers, Will, you are my evidence. Now something had passed between the time of the prisoner's leaving the bed room, and the time of the servant's being called into the parlour, and also between the time of Lady Boughton's coming into the parlour and the time of the servant being called in, all of which she does not remember; and though this expression is extraordinary, yet unless we knew the whole of what had passed, that expression does not strike me as a matter which is much to be relied upon, for if Lady Boughton had entertained suspicion of the prisoner's having been in Sir Theodosius's room that morning, and had communicated that suspicion to the prisoner, it is natural enough for him to call a person to speak to a fact which might relate to that or to something else, which he had said to Lady Boughton, or which she had said to him, and then he might make this answer, without adverting to any thing but what had immediately passed between them.

The next thing is his conduct with respect to the gentlemen of the faculty: He told Lady Boughton he had received a letter from Sir William Wheeler, desiring that the body might be opened; he read the answer to her, which he wrote after Doctor Rattray had been there; she objected to that answer, but the particular reason for objecting to it, she did not give. In that letter he tells Sir William Wheeler, that he has great satisfaction in the receipt of his letter, as it gives him an opportunity of instantly observing his advice in all respects. He then says, he sent for Dr. Rattray and Mr. Wilmer, who brought with them another person, that made three; and that Mr. Powell gave them the meeting; so that, according to this letter, four persons were present; and which meeting, the prisoner, by his answer, leaves Sir William Wheeler to understand, had been a meeting procured in consequence of the letter Sir William had himself sent. The prisoner in that letter says, after the receipt of your last letter I gave it them to peruse, and act as it directed; the four gentlemen proceeded accordingly; and I am happy to inform you that they fully satisfied us. Now, what were the facts, upon the evidence, which warranted this general expression? Doctor Rattray and Mr. Wilmer

had been in the room, they had seen nothing but the face of the deceased, they had heard of no suspicion of poison, they had never seen the first letter which Sir William Wheeler had written to the prisoner; and it will be for you to consider, whether by shewing them the second letter only, in which nothing is said about a suspicion of poison and keeping back the first, he meant to mislead the Doctors; and whether, by his answer to Sir William Wheeler, he also intended to mislead him, and that his answer should have that effect which Sir William swears it had upon his mind: that is, that Sir William Wheeler should understand that the body had been inspected and opened by these gentlemen of the faculty. The first letter from Sir William Wheeler the prisoner never produced at all, in which Sir William had expressly intimated, and spoken of the suspicions about the manner in which Sir Theodosius Boughton got his death, wherein he strongly presses the opening of the body, in different parts of his letter, mentioning the report of the country, that Sir Theodosius Boughton had been killed by medicine or by poison; and in which, at last, he concludes, begging that the body might be opened. This letter the prisoner had, but this letter was not produced. For what purpose was it that this letter was secreted? If it were for the purpose of preventing the body being opened, and of preventing the Doctors from making a fair and full examination in what way Sir Theodosius did get his death, it is then a very strong circumstance in the cause; and you observe, that both these witnesses swear that if they had had any intimation of poison, which if they had seen that letter they must have had, they never would have gone away without opening the body; so that the body was not opened at that time, by the means of this letter being kept back. But yet it is possible that the prisoner might suppose that Sir William Wheeler's ideas were sufficiently communicated, to the Physicians and the Surgeons, by the last letter; and that therefore it was unnecessary to shew the first; and that he did not do it with a view to suppress from them the suspicions that had been entertained abroad; and if you are of that opinion, then this fact ought to have no weight.

The next fact spoken to is, the prisoner's behaviour about the clothes: he orders them to be taken out of the room before any person comes; he takes up the stockings himself, and says they are wet. Was that true? Lady Boughton swears, positively, that she examined the stockings; that they were not wet, and there was no appearance of their having been wet.

Another fact, which has been proved in evidence is, the conversations that the prisoner has held about this unfortunate young man, before the time that this happened. Mr. Newson says he represented Sir Theodosius Boughton to him as a person in a very bad state of health, that his blood was a mass of mercury and corruption. Is that true? Two witnesses have been called who attended him, Mr. Powell and Mr. Carr, neither of them say a syllable about any mercury being ever given to him. The prisoner tells a story to Mr. Newson about a violent swelling in the groin, which they wanted to bring to a head, and for that reason had endeavoured to prevail on the deceased to live well; but that he would not do; and that the disorder was then at a crisis. Was that true? Mr. Powell does not agree in it, for he says it was very trifling, it was hardly above the skin; so that, in this also, he is contradicted by Mr. Powell; he told Mr. Newson that Sir Theodosius's breath was so offensive they could hardly bear it. Of that there is no evidence either way.

Then they go to facts subsequent to the time when Doctor Rattray was there; on the day after, Mr. Bucknill, the Surgeon, goes and desires leave to open the body. What is the prisoner's answer? Doctor Rattray and Mr. Wilmer have declined it; and it would not be fair in us to open it after gentlemen so eminent in the profession have declined it. Was not this meant to prevent the body being opened at all? Here is a Surgeon attends and offers to open it, but the prisoner says it is not fair in us to open it, after gentlemen so eminent in the profession have declined it. What, in a case where a suspicion of poison had prevailed, where that had been particularly mentioned by a near friend and relation of the family, Sir W. Wheeler? if a man was to be found who would open the body, was it not the thing to be desired by every person? But that is refused; afterwards Mr. Snow comes to the house; what passed between the prisoner and Mr. Snow we have not heard; but when Mr. Bucknill comes back again, he asks the prisoner if Mr. Snow was gone? the prisoner told him yes, he had been there, and he had given orders what to do, and they were proceeding accordingly. What were the orders? Were they any thing more than that the body should be buried? Those the prisoner says, in his defence, were the orders; but Mr. Snow is not called. You have had no evidence of any thing that passed between the prisoner and Snow. You are told by the prisoner, in his defence, that Snow advised him instantly to bury the body; and if that were all the ad-

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vice given, why in such a case should not the prisoner call Snow to prove what passed between them, and what information he gave to Snow? or why did he not communicate to Bucknell the reasons given by Snow? But the prisoner chose to content himself with a general answer to Mr. Bucknell, that Mr. Snow had given orders what they should do, and they were proceeding accordingly.

They then shew you, that the prisoner, for a long time before this, had been making use of a still; he had a still in the house, which he kept in a room that belonged to himself, and was called his room, and in which at former times he had been distilling different things. That is a circumstance to be considered, but it is a circumstance, which if alone, would not deserve much weight; for a man may have such a thing for an honest purpose, and he had made use of it sometimes for an honest purpose; for, he used it in distilling lavender and in distilling roses. But however this fact appears, that he had it in his possession long before the time when Sir Theodosius Boughton died, that he produced it himself within two or three days after Sir Theodosius's death, that it was then full of lime, and it was wet. The prisoner then thought it necessary to assign a reason for the state in which it was, and he tells the gardener, he had used the lime to kill fleas. Now it is rather an extraordinary thing that it should be thought necessary by him at that time to make an excuse about the still, when no question had been asked about it. What other conversation is there between the prisoner and this witness, the gardener? In the morning of that day, the prisoner comes to the gardener, and tells him, you shall work at your ease now: I have long wanted to be master before, but now I am got master, and I shall be master. On the same morning he tells the gardener he must get some pigeons; that they must have them at ten o'clock for Sir Theodosius, for, poor man, he is very ill with that nasty disorder: this must have been after he had seen him in a dying state; to what cause can we attribute his ordering pigeons to be killed and got ready at such an hour as ten o'clock in the morning? The Counsel suggest, that the pigeons were to put to the deceased's feet, that is a practice we must all have heard of; but if that were the design, how comes it it was never mentioned in the room? Not a word is said to Lady Boughton about it, or that any thing like it was to be done, but all the conversation that passed between her and him respects the bottle, and not a word of any thing that is likely to be of any use to Sir Theodosius Boughton, though he is dying, and at the last gasp soon after eight o'clock, the pigeons are not to be had till ten.

Then as to the conduct of the prisoner before the Coroner, Lady Boughton had mentioned the circumstance of the prisoner's rinsing out the bottle, one of the Coroner's jury swears that he saw the prisoner pull her by the sleeve. Why did he do that? If he was innocent, should it not be his wish, and anxious desire, as he expresses in his letter, that all possible enquiry should be made? What passes afterwards? When they get home, the prisoner tells his wife, that Lady Boughton had given this evidence unnecessarily; that she was not obliged to say any thing but in answer to questions that were put to her, and that the question about rinsing out the bottles was not asked her. Did the prisoner mean that she should suppress the truth; that she should endeavour to avoid a discovery as much as she could, by barely saying yes, or no, to the questions that were asked her, and not disclose the whole truth? If he was innocent, how could the truth affect him, but at that time, the circumstance of rinsing the bottles appeared, even to him, to be so decisive, that he stopped her in the instant, and he blamed her afterwards for having mentioned it.

Gentlemen, all these are very strong facts to shew what was passing in the prisoner's own mind; they are strong facts to shew what he was conscious of at that time. Besides that, the evidence that was given by one of the witnesses of the conversation that the prisoner has held since he has been in the gaol, is to be considered. You are told that for a long time together, beginning within a month after he got into the gaol, he was continually talking about this affair; at that time he made no doubt but that Sir Theodosius Boughton had been poisoned. He stated it as a matter that admitted of no doubt. Within a short time past that tale has been altered. Gentlemen, these are the material circumstances against the prisoner.

The prisoner in his defence says, and which he would have you believe from the letter, that he has always been ready to give the utmost satisfaction in this inquiry, that he wished to have the body opened; that he expressed himself so to the different witnesses; that he wrote to Sir William Wheeler, desiring him to come over to Lawford Hall, and begged that he (Sir William) would be present at the time. You have heard the letters read, and the expressions that are made use of. In them he mentions the satisfaction on which he received from Sir William Wheeler's letter, and that it was his desire to have the body opened. He said to the surgeon that was examined, that it was his wish

to have the body opened. But the question for you to consider is, whether, upon the whole of his conduct, he did endeavour to have the body opened; for if upon the whole, he did not attempt to get the body opened, but has repeatedly prevented it, that will be much stronger than his saying, once, twice, or twenty times, that he wished it. If his wish had been sincere, why was the first letter of Sir William Wheeler's suppressed, and not shewn to the Physician? It is for you, upon the whole, to say whether you are satisfied that what he said in one or two of his letters, and what he said to the young man, the Surgeon, was his real intention, and that he did mean that the body should be opened; or whether those expressions were only used to throw a blind upon the case, and still that he endeavoured, by every artifice, to prevent it. If he did prevent the opening of the body before it was buried, and meant to do so, you will consider with what view that could be done. Could it be done with any view but to suppress the truth? If you are satisfied, upon the whole, that the deceased was poisoned, the next question is, by whom that poison was prepared? you have been truly told, by the Counsel on the part of the prosecution, that it is perfectly immaterial what was the kind of poison; the indictment states it to have been arsenic: But it is not necessary, in point of law, to be proved that any arsenic was administered to the deceased; for if you are satisfied that he was destroyed by poison, and that the prisoner mixed up that poison, and put it secretly in the place of a medicine, for the purpose of being given to Sir Theodosius, and that it afterwards was given to him, and was the cause of his death, that is full evidence of the offence that is charged against him. Now, with respect to his being the person, it must depend upon the evidence I have stated to you before. As against him, every circumstance I have been speaking of is a degree of proof, and that circumstance (to which I can find no answer whatever) of his rinsing out the bottle, does carry strong marks of knowledge in him, that there was something in that bottle which he wished should never be discovered.

The prisoner, in his defence, says, that he was not to gain any thing by Sir Theodosius Boughton's death; that his affairs were so arranged, upon his marriage, that he never was to get any thing by Sir Theodosius's death; and therefore there was no motive that could have led him to the commission of this crime. Whether there was any settlement made on his marriage, or what that settlement was, has not appeared in evidence. The prisoner says further, that he had, in repeated instances, interposed to save this young man from scrapes. In one instance it is proved that he did; and some evidence is given of another instance, though the witness says, that matter was settled before the prisoner came. However, so far you must take that for the credit of the prisoner, that he did go for the purpose of mediation and preventing mischief. Another fact of that sort was proved, by Lady Boughton, to have happened at Bath; and she understood that the prisoner interferred there to put an end to a dispute Sir Theodosius had with another gentleman.

Now these are facts that are not to be forgotten; you will take them into your consideration, and give them all the weight that you think they, in justice, deserve; but you will observe, that these quarrels are at a distance of time before the death of Sir Theodosius. One of them is at the distance of two years; and that which Lady Boughton speaks of is, I think, about November 1778. So that these are facts of his interposing to prevent any mischief that might arise in consequence of quarrels between the deceased and other persons, at a period very distant from that which gave rise to the present enquiry. On the other hand, it is proved that the prisoner has represented this young man as in a dangerous state of health, not likely to live long, very recently before his death; and at a time when Sir Theodosius appeared to others to be in good health and good spirits; for the Clergyman speaks of a conversation on the Saturday before his death.

You must take all the circumstances of the case together into your consideration, and remember, that it is for you to form your own opinions, and to decide upon the fate of the prisoner, in the doing of which, I am sure you will act according to the best of your judgment and your conscience, to find out the truth of the case; and as you find that truth, so you will pronounce your verdict.

The Trial began at half after seven o'clock in the morning; at twenty-five minutes after six in the afternoon, the Jury withdrew; they returned into Court, at thirty-four minutes after six, with a verdict finding the prisoner GUILTY.

Mr. JUSTICE BULLER.

JOHN DONELLAN, The offence of which you now stand convicted, next to those which immediately affect the state, the government, and the constitution of our country, is of the blackest dye that man can commit. For of all felonies, murder is the most horrible, and of all murders, poisoning is the most detestable. Poisoning is a secret act against which there are no means of preserving or defending a man's life, and as far as there can be different degrees in crimes of the same nature, your's surpasses all that have ever gone before it.

The manner and the place in which this dark deed was transacted, and the person on whom it was committed, much enhance your guilt. It was committed in a place where suspicion, at the instant, must have slept; where you had access as a bosom friend and brother; where you saw the rising representative of an ancient family reside in affluence; but where your ambition led you proudly, but vainly, to imagine, that you might live in splendor and in happiness, if he, whom you thought your only obstacle, were removed. Probably the greatness of his fortune caused the greatness of your offence; and I am fully satisfied upon the evidence given against you, that avarice was your motive, and hypocrisy afforded you the means of committing this offence.—That the deed was done by you, which not only hastened him, but must very soon bring you to an untimely grave, has been fully proved to the satisfaction of myself and the Jury, and I think it is impossible to find any, even the meanest capacity, amongst the numerous auditory standing around you, that can doubt about your guilt.

In most cases of murder it has pleased Heaven, by some mark or other, to point out the guilty person, and all the care and the foresight of the most cunning and the coolest offenders, have not been able to guard against some token, some unthought-of circumstance, which has left a door open to a discovery, which they imagined they had effectually barred up all access to.

In your case, the false accounts given by yourself; the misrepresentations that you have held out to Sir William Wheeler; the endeavours that you have used to prevent a full enquiry and discovery of the truth of the case; the strange conversations which you have held at different times; and above all, the circumstance of rinsing out the bottle, leave your guilt without the smallest doubt. In such a case as your's, supported by such cogent proofs as have been adduced against you, you can receive nothing from the tribunal, before which you now stand, but strict and equal justice. But you will soon appear before an Almighty Judge, whose unshunnable wisdom is able, by means incomprehensible to our narrow capacities, to reconcile justice with mercy. Your education must have informed you, and you will do well to remember, that such beneficence is only to be obtained by deep contrition, by sound, unfeigned, and substantial repentance. May it please that great and august Being, during the short time that is allotted for your existence in this world, to work that repentance, and that contrition in your mind, which may besit you for his everlasting mercy. But the punishment which the public has a right to demand, and which I must inflict upon you, is speedy and ignominious death. And the Sentence which I now pronounce upon you is, *That you be taken from hence to the place from whence you came; that from thence, on Monday next, you be carried to the place of execution, there to be hanged by the neck until you are dead; and that your body be afterwards delivered to the Surgeons to be dissected and anatomized.*—And may God Almighty be merciful to your soul.

On Monday the second day of April the prisoner was executed pursuant to his sentence.

This Day is published, a New Edition, (being the Fifth) of

THE TRIAL of LORD GEORGE GORDON:

Containing the Evidence and the Arguments of the Counsel at large,

As taken in *Short-Hand* by Mr. GURNEY.

ALSO a new Edition (being the Ninth) of *Gurney's System of Short-hand.*

DEDICATED (with Permission) to the KING.